



DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

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[FAR Case 2021-015, Docket No. FAR-2021-0015, Sequence No. 1]

RIN 9000-AO32

Federal Acquisition Regulation: Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a requirement to ensure certain Federal contractors disclose their greenhouse gas emissions and climate-related financial risk and set science-based targets to reduce their greenhouse gas emissions.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]** to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2021-015 to the Federal eRulemaking portal at <https://www.regulations.gov> by searching for "FAR Case 2021-015". Select the link "Comment Now" that corresponds with "FAR Case 2021-015". Follow the instructions provided on the "Comment Now" screen. Please include your name, company name (if any), and "FAR Case 2021-015" on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

Instructions: Please submit comments only and cite "FAR Case 2021-015" in all correspondence related to this case. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. Public comments may be submitted as an individual, as an organization, or anonymously (see frequently asked questions at <https://www.regulations.gov/faq>). To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Jennifer Hawes, Procurement Analyst, at 202-255-9194 or by email at jennifer.hawes@gsa.gov. For information pertaining to status, publication schedules, or

alternate instructions for submitting comments if <https://www.regulations.gov> cannot be used, contact the Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov. Please cite FAR Case 2021-015.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the FAR to implement section 5(b)(i) of Executive Order (E.O.) 14030, Climate-Related Financial Risk, to require major Federal suppliers to publicly disclose greenhouse gas (GHG) emissions and climate-related financial risk and to set science-based reduction targets. As stated in the Fourth National Climate Assessment (<https://nca2018.globalchange.gov/>) and the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report (<https://www.ipcc.ch/report/ar6/wg2/>), the intensifying impacts of climate change present physical risks, such as increased extreme weather risk leading to supply chain disruptions, and increasing risks to infrastructure, investments, and businesses. The global, rapid shift away from carbon-intensive energy sources and industrial processes towards decarbonized, climate-resilient economies will help to mitigate these risks while also enhancing U.S. competitiveness and economic growth, promoting environmental justice, and creating well-paying

job opportunities for American workers. Yet, these risks and opportunities can remain hidden.

The foundation to properly analyze and mitigate climate risks is public and standardized disclosure, which will enable the Federal Government to conduct prudent fiscal management of all major Federal suppliers. To that end, section 5(b)(i) of the E.O. directs the Federal Acquisition Regulatory Council (FAR Council), in coordination with the Council on Environmental Quality (CEQ) and the heads of relevant agencies, to consider an amendment to the FAR to ensure that major Federal suppliers disclose their GHG emissions and climate-related financial risk and set science-based targets to reduce their GHG emissions. The purpose of this proposed rule is to amend the FAR to establish a policy to ensure major Federal suppliers make the required disclosures and set targets to reduce their GHG emissions.

On December 8, 2021, the Office of Management and Budget (OMB) issued memorandum M-22-06 pursuant to section 510(a) of E.O. 14057, Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability. Section II.1. of the OMB memo states that the FAR Council should leverage existing third-party standards and systems, including the Task Force on Climate-related Financial Disclosures (TCFD) Recommendations, the CDP (formerly Carbon Disclosure Project) reporting system, and Science Based Targets

Initiative (SBTi) criteria, or equivalents, in the development of regulatory amendments to promote contractor attention regarding reduced carbon emissions and Federal sustainability.

On March 21, 2022, in response to the growth in investor demand for and company disclosure of information about climate change risks, impacts, and opportunities, the Securities and Exchange Commission (SEC) published on its website at <https://www.sec.gov/rules/proposed.shtml> a proposed rule to facilitate the disclosure of consistent, comparable, and reliable information on climate-related financial risk. The proposed rule, entitled "The Enhancement and Standardization of Climate-Related Disclosures for Investors," was subsequently published in the *Federal Register* on April 11, 2022 (see 87 FR 21334). The SEC is proposing to require SEC registrants, including publicly listed/traded companies, to disclose in their registration statements and annual reports their climate-related financial risk and related metrics, including GHG emissions metrics. Parts of the SEC proposed rule leverage existing standards, such as the GHG Protocol Corporate Accounting and Reporting Standard and the recommendations of the TCFD, the same standards that are leveraged in this proposed rule (see section II.A. of this preamble). While the SEC proposed rule did not include a requirement for SEC registrants to set science-based targets, it did propose

that SEC registrants disclose targets if they have adopted one. While there are some similarities between the content of the disclosures in the SEC and FAR proposed rules, this proposed FAR rule specifically requires the Federal contractors with significant Federal contracts to provide their disclosures using the CDP Climate Change Questionnaire to maximize the consistency, comparability, and accessibility of disclosure data for use in managing Federal procurements and supply chains. In addition, per this proposed FAR rule, major contractors will also be required to set science-based targets to reduce their GHG emissions.

II. Discussion and Analysis

To implement the new disclosure and target requirements of E.O. 14030, DoD, GSA, and NASA are proposing to create a new FAR subpart at 23.XX, entitled "Public Disclosure of Climate Information," to expand the climate-related representations in the solicitation provisions at FAR 52.223-22, Public Disclosure of Climate Information-Representation, and 52.212-3, Offeror Representations and Certifications-Commercial Products and Commercial Services, and to establish a new standard of responsibility for certain contractors in FAR subpart 9.1. The following is a discussion and analysis of the proposed FAR amendments:

A. Significant and major contractors.

Section 5(b)(i) of E.O. 14030 directs the FAR Council to consider an amendment to the FAR to ensure major Federal suppliers disclose their GHG emissions and climate-related financial risk and set science-based targets to reduce their GHG emissions. This rule proposes to separate "major Federal suppliers" into two categories: significant contractors and major contractors. Per this proposed rule, both significant contractors and major contractors would be subject to annual Scope 1 and Scope 2 GHG emissions disclosure requirements (discussed in section II.B.1. of this preamble), while only major contractors would be subject to the annual climate disclosure, which includes disclosure of Scope 3 GHG emissions, and science-based target requirements (discussed in section II.B.2. and II.B.3. of this preamble).

For the purposes of this rule, an offeror is considered a "significant contractor" if the offeror received \$7.5 million or more, but not exceeding \$50 million, in Federal contract obligations (as defined in OMB Circular A-11) in the prior Federal fiscal year as indicated in the System for Award Management (SAM) at <https://www.sam.gov>. An offeror is considered a "major contractor" if the offeror received more than \$50 million in Federal contract obligations (as defined in OMB Circular A-11) in the prior Federal fiscal year as indicated in SAM. According to award data available in the Federal

Procurement Data System (FPDS), there were approximately 4,413 entities that received between \$7.5 million and \$50 million in Federal contract obligations in FY 2021, of which 2,835 (64 percent) are estimated to be small businesses. There were approximately 1,353 entities that received more than \$50 million in Federal contract obligations in FY 2021, of which 389 (29 percent) are estimated to be small businesses.

This distinction between major contractors and significant contractors is important to ensure this rule collectively applies the requirements to entities receiving the most annual Federal contract obligations, to obtain the most responsibility for the management of GHG emissions and climate risks impacting the Federal Government's supply chains. The major contractor requirements would address 64 percent of Federal Government spend and approximately 69 percent of supply chain GHG impacts, of which 31 percent of major contractors already report disclosing their GHG emissions through SAM. Significant contractors receive fewer contract obligations, with only 10 percent disclosing their GHG emissions through SAM. Therefore, the reporting burden is significantly lessened for these companies by only reporting Scope 1 and 2 emissions. Collectively, this rule will cover 86 percent of annual spend and about 86 percent of supply chain GHG impacts. It will also provide a

better understanding of the Federal supply chain impacts, including Scope 3 emissions reported by major contractors.

B. Policy.

As provided in paragraph (a) of the new section at FAR 23.XX03, a contracting officer is required to treat a significant or major contractor as nonresponsible, unless it has (itself or through its immediate owner or highest-level owner) inventoried its annual GHG emissions, and the significant or major contractor has disclosed its total annual emissions in SAM. Per paragraph (b) of FAR section 23.XX03, a major contractor shall also be treated as nonresponsible, unless it has (itself or through its immediate owner or highest-level owner) made available on a publicly accessible website an annual climate disclosure that was completed using the CDP Climate Change Questionnaire in its current or previous fiscal year and set targets to reduce its emissions.

The following is a discussion of the specific compliance requirements, which are subject to the exceptions and starting dates described in sections II.C. and II.E. of this preamble. A discussion of the various standards specified for compliance is provided in section II.D. of this preamble.

1. GHG inventory.

A significant or major contractor (itself or through its immediate owner or highest-level owner) is required to

have completed within its current or previous fiscal year a GHG inventory of its annual Scope 1 and Scope 2 emissions. The significant or major contractor must also disclose in SAM at <https://www.sam.gov> the total annual Scope 1 and Scope 2 emissions identified through its most recent GHG inventory. Per OMB Memo M-22-06 (and as currently defined at FAR 23.001), greenhouse gases include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, nitrogen trifluoride, and sulfur hexafluoride. Scope 1 emissions include GHG emissions from sources that are owned or controlled by the reporting company. Scope 2 emissions include GHG emissions associated with the generation of electricity, heating and cooling, or steam, when these are purchased or acquired for the reporting company's own consumption but occur at sources owned or controlled by another entity. In conducting a GHG inventory, the significant or major contractor (or their immediate or highest-level owner) must follow the GHG Protocol Corporate Accounting and Reporting Standard (see section II.D.1. of this preamble) to develop a quantified list of the Scope 1 and Scope 2 GHG emissions. Companies may calculate emissions using the calculation tool of their choice, as long as it is in alignment with the GHG Protocol Corporate Accounting and Reporting Standard. The Environmental Protection Agency (EPA) offers one such tool: a simplified GHG emissions calculator (see

<https://www.epa.gov/climateleadership/simplified-ghg-emissions-calculator>). The inventory must represent emissions during a continuous period of 12 months, ending not more than 12 months before the inventory is completed.

Major contractors are also required to conduct a GHG inventory of their relevant Scope 3 emissions, as discussed in the next section of this preamble. The requirement to inventory Scope 3 emissions is not applicable to significant contractors.

2. Annual climate disclosure.

A major contractor (itself or through its immediate owner or highest-level owner) is required to complete an annual climate disclosure within its current or previous fiscal year. The annual climate disclosure is a set of disclosures by an entity that aligns with recommendations of the TCFD (see section II.D.2. of this preamble). The disclosure includes a GHG inventory of not only the Scope 1 and Scope 2 emissions, but also relevant Scope 3 emissions, which are emissions that are a consequence of the operations of the reporting entity but occur at sources other than those owned or controlled by the entity. The annual climate disclosure also describes the entity's climate risk assessment process and any risks identified. For the purposes of this rule, a major contractor submits its annual climate disclosure by completing those portions of the CDP Climate Change Questionnaire that align with the

TCFD as identified by CDP

(<https://www.cdp.net/en/guidance/how-cdp-is-aligned-to-the-tcfd>) (see section II.D.3. of this preamble) within its current or previous fiscal year. The annual climate disclosure must be made available on a publicly accessible website, which could be the company's own website or the CDP website.

3. Science-based targets.

The major contractor (itself or through its immediate owner or highest-level owner) is also required to develop science-based targets and have the targets validated by SBTi (see section II.D.4. of this preamble). A science-based target is a target for reducing GHG emissions that is in line with reductions that the latest climate science deems necessary to meet the goals of the Paris Agreement to limit global warming to well below 2°C above pre-industrial levels and pursue efforts to limit warming to 1.5°C (see SBTi frequently asked questions at <https://sciencebasedtargets.org/faqs#what-are-science-based-targets>). For information on the latest climate science see 2018 Intergovernmental Panel on Climate Change (IPCC) Special Report on 1.5°C at <https://www.ipcc.ch/sr15/>. These targets must be validated by SBTi within the previous five calendar years and must also be made available on a publicly accessible website.

Validated targets published by SBTi on the SBTi website satisfy this requirement.

4. Means of compliance.

The proposed rule allows for a significant or major contractor to be considered in compliance with the new policy at 23.XX03 if the action was completed by the significant or major contractor itself or through its immediate or highest-level owner, except that the significant or major contractor itself must report the results of the GHG inventory in SAM (see 23.XX03(a)(2)).

The definitions of "immediate owner" and "highest-level owner" currently included in the provisions at FAR 52.204-17, Ownership or Control of Offeror, and the commercial provision at FAR 52.212-3 are adopted for this rule. Specifically, an "immediate owner" is an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees. "Highest-level owner" means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest-level owner.

C. Exceptions.

A new FAR section at 23.XX04 outlines certain exceptions. Per FAR 23.XX04(a), a significant or major contractor is not required to inventory its Scope 1 or Scope 2 emissions and a major contractor is not required to complete an annual climate disclosure or set science-based targets, as described in section II.B. of this preamble, if it is—

- An Alaska Native Corporation, a Community Development Corporation, an Indian tribe, a Native Hawaiian Organization, or a Tribally owned concern, as those terms are defined at 13 CFR 124.3;
- A higher education institution (defined as institutions of higher education in the OMB Uniform Guidance at 2 CFR part 200, subpart A, and 20 U.S.C. 1001);
- A nonprofit research entity;
- A state or local government; or
- An entity deriving 80 percent or more of its annual revenue from Federal management and operating (M&O) contracts that are subject to agency annual site sustainability reporting requirements.

The exception provided for Federally-recognized tribes or tribal or Native corporations is in accordance with related Federal procurement policies and current commercial norms for sustainability reporting. The exception for institutions of higher education or nonprofit research

entities is provided because a large majority of such institutions that are significant or major contractors either already set GHG reduction targets and make sustainability disclosures but are likely doing so (in accordance with current commercial norms for sustainability reporting) with standards and systems other than those specified in this rule, or are pass-through entities with minimal Scope 1 and 2 emissions and little capacity to manage Scope 3 emissions and climate risks.

An M&O contract is an agreement under which the Government contracts for the operation, maintenance, or support of a Government-owned or Government-controlled research, development, special production, or testing establishment wholly or principally devoted to one or more major programs of the contracting Federal agency (see FAR subpart 17.6). A market scan indicates that a majority of current M&O contract holders derive all, or substantially all, of their revenue from Federal site M&O contracts. For these contractors, it was determined that since all or substantially all their facilities and GHG emissions are already subject to comprehensive Federal sustainability performance and reporting requirements under their M&O contracts, related laws, and executive orders, it would be duplicative and unnecessary to require them to also report using the separate standards and systems required by this rule. The market scan indicated that a minority of current

M&O contract holders are larger entities deriving less than 80 percent of their revenue from Federal site M&O contracts, indicating that they likely operate substantial facilities and emit substantial GHG emissions, which are not covered by other Federal sustainability performance and reporting requirements. For these entities, requiring them to report using the separate standards and systems required by this rule will allow the Government and the public to understand the scope of climate risks and impacts attributable to these entities' substantial non-M&O activities and encourage the entities to reduce those risks and impacts.

FAR section 23.XX04(b) provides additional exceptions for certain major contractors. If a major contractor is considered a small business for the North American Industry Classification System (NAICS) code it has identified in its SAM registration as its primary NAICS code, or if it is a nonprofit organization, then it is not required to complete an annual climate disclosure or to set science-based targets. However, the major contractor is still required to complete a GHG inventory of its Scope 1 and Scope 2 emissions and must report these total annual emissions in SAM.

The public is invited to provide public comments on the appropriateness of the exceptions included in this

proposed rule, including potential alternatives to be considered in the formation of the final rule.

D. Standards.

Section II.1. of OMB memorandum M-22-06 directs the FAR Council to leverage existing third-party standards and systems in the development of regulatory amendments to promote contractor attention on reduced GHG emissions and Federal sustainability. In alignment with the National Technology Transfer and Advancement Act of 1995 and OMB Circular A-119, which directs Federal agencies to use non-governmental private sector standards to meet policy and procurement objectives, as described in section II.B. of this preamble, this rule engages contractors through widely-accepted protocols and platforms that they are already using to publicly disclose annual climate data to a variety of other interested parties. The rule requires contractors to use the following four standards: the GHG Protocol Corporate Accounting and Reporting Standards and Guidance, the 2017 Recommendations of the TCFD, the CDP Climate Change Questionnaire, and the SBTi criteria. The public is invited to provide public comments on the use of these standards in this proposed rule, including potential alternatives to be considered in the formation of the final rule. The following is a summary of the standards proposed for disclosures by significant and major contractors.

1. GHG Protocol Corporate Accounting and Reporting Standards and Guidance.

The GHG Protocol Corporate Accounting and Reporting Standard, 2004 revised edition (see <https://ghgprotocol.org/sites/default/files/standards/ghg-protocol-revised.pdf>) is the most widely used accounting tool to track corporate GHG emissions. It describes how to complete a comprehensive GHG inventory across Scope 1, Scope 2, and relevant categories of Scope 3 emissions. This standard is supplemented by Required Greenhouse Gases in Inventories: Accounting and Reporting Amendment, 2013 (see https://www.ghgprotocol.org/sites/default/files/ghgp/NF3-Amendment_052213.pdf). Further implementing instructions for quantifying emissions can be referenced in GHG Protocol Scope 2 Guidance, 2015 (see [https://ghgprotocol.org/sites/default/files/standards/Scope %20%20Guidance_Final_Sept26.pdf](https://ghgprotocol.org/sites/default/files/standards/Scope%20%20Guidance_Final_Sept26.pdf)) and GHG Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard Guidance, 2011 (see https://ghgprotocol.org/sites/default/files/standards/Corporate-Value-Chain-Accounting-Reporting-Standard_041613_2.pdf). General information on the GHG Protocol Corporate Standard and related guidance is available at <https://ghgprotocol.org/corporate-standard>.

2. Task Force on Climate-related Financial Disclosures.

In 2017, the TCFD launched recommendations to improve and increase reporting of climate-related financial information. The TCFD recommendations cover Governance, Strategy, Risk Management, and Metrics and Targets. Climate-related risks are considered across two major categories: (1) risks related to the transition to a lower-carbon economy, and (2) risks related to the physical impacts of climate change. Governments around the world are asking companies to provide consistent and decision-useful information to market participants in line with TCFD recommendations (see <https://assets.bbhub.io/company/sites/60/2021/10/FINAL-2017-TCFD-Report.pdf>). In 2021, the TCFD updated its implementation guidance for the 2017 Recommendations by issuing an annex titled "Annex: Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures." The updates reflect the evolution of disclosure practices, approaches, and user needs (see https://assets.bbhub.io/company/sites/60/2021/07/2021-TCFD-Implementing_Guidance.pdf).

3. CDP Climate Change Questionnaire.

CDP (formerly the Carbon Disclosure Project) is an international non-profit organization that runs a global environmental disclosure system. CDP's annual Climate Change Questionnaire enables companies to report GHG emissions and climate change risk through a standard

process and make their environmental impact transparent to interested parties. Companies disclose once annually by submitting a response to the CDP Climate Change Questionnaire through CDP's online response system (ORS). Companies are able to utilize the GHG Protocol Corporate Accounting and Reporting Standard when completing their GHG inventory to disclose through CDP. CDP's disclosure platform provides the mechanism for reporting climate-related financial risks in line with the TCFD recommendations as well as reporting annual progress towards science-based targets.

CDP operates an annual disclosure cycle that enables companies to disclose emissions and climate risk information at the request of investors, corporate and government customers, the general public, and other interested parties. Each year CDP issues the proposed updates to the questionnaire, which are opened for public consultation in the fall (approximately September) and the finalized questionnaire and guidance are available early in the new year (approximately January). The Online Response System (ORS) opens once annually (approximately April), and responses must be submitted by a summer deadline (approximately July). Updated calendars are published by CDP annually: <https://www.cdp.net/en/companies-discloser/How-to-disclose-as-a-company>.

CDP's Climate Change Questionnaire prompts users for some disclosures and datapoints that are beyond the scope of this FAR rule, which is to obtain annual climate disclosures from major contractors (see II.B.2. of this preamble). These additional datapoints may be of interest to investors, external non-Federal Government customers, or the general public who also rely on CDP disclosures to evaluate corporate climate performance. This proposed FAR rule clarifies at 23.XX03(b)(1) and in 52.223-22 and 52.212-3(t) that the offeror (itself or through its immediate owner or highest-level owner) is only required to complete those portions of the CDP Climate Change Questionnaire that align with the TCFD recommendations as identified by CDP (<https://www.cdp.net/en/guidance/how-cdp-is-aligned-to-the-tcfd>). This allows companies to determine what responses in the CDP questionnaire are appropriate or necessary to complete in order to provide a TCFD-aligned annual climate disclosure. Questions beyond those that are necessary to provide an annual climate disclosure for Federal use, as defined by this rule, are considered optional for the purposes of this rule. Neither the CDP climate scores, nor answers to questions beyond those necessary to provide a complete annual climate disclosure, will be used to evaluate compliance with this FAR rule. The Government seeks public comment regarding what, if any, additional specificity is needed beyond "those portions of

the CDP Climate Change Questionnaire that align with the TCFD recommendations as identified by CDP (<https://www.cdp.net/en/guidance/how-cdp-is-aligned-to-the-tcfd>)".

4. Science-Based Targets Initiative.

SBTi is a partnership between CDP, the United Nations Global Compact (UNGC), the World Resources Institute (WRI), and the World Wide Fund for Nature (WWF, also known as the World Wildlife Fund). Science-based targets provide a clearly-defined pathway for companies to reduce GHG emissions in line with reductions that the latest climate science deems necessary to meet the goals of the Paris Agreement—limiting global warming to well below 2°C above pre-industrial levels and pursuing efforts to limit warming to 1.5°C. Companies can commit to set a science-based target and then, within two years, must develop a science-based target and have it validated through the SBTi target validation process.

E. Starting dates.

This proposed rule acknowledges that significant and major contractors will need time to come into compliance with the new policy by including delayed starting dates. A significant or major contractor that cannot represent on or after these starting dates that it has complied with the new policy will be presumed to be a nonresponsible

prospective contractor for Federal procurements (see section II.G. of this preamble).

Starting one year after publication of a final rule, a significant or major contractor (itself or through its immediate owner or highest-level owner) must have completed a GHG inventory and the significant or major contractor must have disclosed the total annual Scope 1 and Scope 2 emissions from its most recent inventory in SAM. This one-year period provides the time needed for significant or major contractors to become familiar with the GHG Protocol Corporate Accounting and Reporting Standard, to survey the GHG emissions, and for significant or major contractors to report in SAM the total metric tons of carbon dioxide equivalent (MT CO₂e) of Scope 1 and Scope 2 emissions.

The compliance requirements for major contractors will start two years after publication of a final rule. This delayed starting date provides a major contractor (or its immediate owner or highest-level owner) additional time to complete a GHG inventory that covers relevant Scope 3 emissions; conduct a climate risk assessment and identify risks; complete the CDP Climate Change Questionnaire; and commit to, develop, and obtain SBTi validation of a science-based target.

F. Annual representation.

Amendments are proposed to the annual representations in the solicitation provision at FAR 52.223-22, Public

Disclosure of Climate Information—Representation, and the corresponding representation in paragraph (t) of the provision at FAR 52.212-3 for acquisitions for commercial products or commercial services, to collect information on whether an offeror is in compliance with the new policy. This provision continues to be prescribed for use only when offerors are required to be registered in SAM, though the prescription has been moved to FAR section 23.XX07 of the new subpart. All offerors that register in SAM will be required to represent on an annual basis whether they are a significant contractor or a major contractor (see section II.A. of this preamble). If an offeror represents that it is a significant or major contractor, then the offeror will be required to represent whether it—

- Is subject to an exception (see section II.C. of this preamble);
- Has completed, within its current or previous fiscal year, a GHG inventory of the annual Scope 1 and Scope 2 emissions (evidenced by a report in SAM of the total annual Scope 1 and Scope 2 emissions identified in its most recent inventory);
- Makes available on a publicly accessible website an annual climate disclosure that was completed using the CDP Climate Change Questionnaire within its current or previous fiscal year; and

- Makes available on a publicly accessible website a science-based target that has been validated by SBTi.

The new representations are intended to assist the contracting officer in determining whether the policy at 23.XX03 applies to an offeror and, if so, whether the offeror is in compliance. The new FAR section 23.XX05, Procedures, provides instructions for the contracting officer who is reviewing the representations in paragraph (d) of the provision at FAR 52.223-22 (or the equivalent representations in the commercial provision at FAR 52.212-3(t)). This section includes tables to illustrate the specific responses from offerors that are required to indicate that the offeror is in compliance. If an offeror's representations indicate that the offeror is a significant or major contractor and it is not in compliance with the policy at FAR 23.XX03 (or if the contracting officer has reason to question the representations), then the contracting officer is directed to follow the procedures at FAR 9.104-3(e) for determining whether the offeror is responsible (see section II.G. of this preamble).

G. Responsibility determinations.

Per FAR section 23.XX05(c), the contracting officer is directed to follow the procedures at FAR section 9.104-3(e) for determining responsibility when an offeror represents that it is not in compliance with the policy at 23.XX03

when it should be, or if there is reason to question the offeror's representation.

Per the new procedures at FAR 9.104-3(e), the contracting officer shall presume the prospective contractor is nonresponsible pursuant to 9.104-1, unless the contracting officer determines that—

- Noncompliance resulted from circumstances properly beyond the prospective contractor's control;
- The prospective contractor has provided sufficient documentation that demonstrates substantial efforts to comply; and
- The prospective contractor has made a public commitment to comply as soon as possible on a publicly accessible website (within one year).

In making this determination the contracting officer is directed to request information from the prospective contractor to determine what efforts it has made to comply with each requirement at FAR 22.XX03 and the basis for the failure to comply.

FAR 9.104-3(e) (3) also clarifies that a significant or major contractor who meets one of the exceptions at FAR 23.XX04 (see section II.C. of this preamble) and acquisitions that are subject to an exemption or waiver pursuant to FAR 23.XX06 (see section II.H. of this preamble) are not subject to the new responsibility standard and procedures.

H. Exemptions and waivers.

The new section at 23.XX06 provides for certain exemptions from and waivers to the new procedures for determining responsibility at 23.XX05 and the new responsibility standards at FAR 9.104-3(e) for determining whether a significant or major contractor is responsible (discussed in section II.G. of this preamble). For example, the new procedures do not apply to acquisitions listed at FAR 4.1102(a) where the offeror is exempt from the requirement to be registered in SAM at the time an offer is submitted, since enforcement of the policy at FAR 23.XX03 is accomplished via review of a significant or major contractor's representations in SAM as described in FAR section 23.XX05.

The procedures at FAR section 23.XX05 may be waived by the senior procurement executive for facilities, business units, or other defined units for national security purposes, or for emergencies, national security, or other mission essential purposes. The senior procurement executive may also provide a waiver for a period not to exceed one calendar year to enable an entity an additional year to come into compliance. An agency must make such waivers available on its agency website.

I. Definitions.

Definitions of the following terms are provided in FAR section 23.XX02 and in paragraph (a) of the solicitation

provisions at FAR 52.223-22 and 52.212-3: "annual climate disclosure," "GHG inventory," "major contractor," "publicly accessible website," "science-based target," "Scope 1 emissions," "Scope 2 emissions," "Scope 3 emissions," and "significant contractor." The definitions of "immediate owner" and "highest-level owner" that are currently included in the provision at FAR 52.212-3(a) are added to FAR section 23.XX02 and the solicitation provision at FAR 52.223-22. The current definition of "greenhouse gases" remains at FAR section 23.001 with minor spelling corrections.

J. Conforming changes.

Given that the policy on climate disclosures is moved to a new subpart at FAR 23.XX, conforming changes are proposed at FAR subpart 23.8 to remove the coverage of disclosure of GHG emissions and reduction goals. As a result, 23.802(c) and (d) and 23.804(b) are removed and the remaining paragraphs at FAR sections 23.800 and 23.804 are renumbered accordingly. A cross-reference to the new subpart is added at 23.800(b). Conforming updates to the cross-references to FAR 23.804 are also proposed in FAR 52.213-4, and the prescription references at FAR 52.223-11, 52.223-12, 52.223-20, and 52.223-21. In addition, the title of the provision at FAR 52.223-22 is updated in the provision at FAR 52.204-8, Annual Representations and

Certifications, and in the list of provisions at FAR 4.1202(a).

K. Public input.

The public is specifically invited to provide public comments on the following:

- The appropriateness of the exceptions identified in section II.C. of this preamble, including potential alternatives to be considered in the formation of the final rule.
- The use of the standards identified in section II.D. of this preamble, including potential alternatives to be considered in the formation of the final rule.
- With regards to the CDP Climate Change Questionnaire discussed in section II.D.3. of this preamble, whether any specificity beyond “those portions of the CDP Climate Change Questionnaire that align with the TCFD as identified by CDP (<https://www.cdp.net/en/guidance/how-cdp-is-aligned-to-the-tcfd>)” is necessary.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), and for Commercial Services

This rule proposes to amend the annual representation in the solicitation provision at FAR 52.223-22, Public Disclosure of Climate Information–Representation, and the

corresponding representation in paragraph (t) of the solicitation provision at FAR 52.212-3, Offeror Representations and Certifications—Commercial Products and Commercial Services. The provision at FAR 52.223-22 will continue to be prescribed for use in solicitations that also include the provision at FAR 52.204-7, System for Award Management. This prescription ensures that all offerors who are required to register in SAM and who received \$7.5 million or more in Federal contract obligations in the prior Federal fiscal year, including those who compete exclusively for contracts for commercial products or commercial services or those valued at or below the SAT, provide a response to the revised representations.

The new procedures at FAR 22.XX05 and new standards at FAR 9.104 for determining the responsibility of a prospective contractor, if it is a significant or major contractor, will apply to acquisitions of commercial products (including COTS items) or commercial services, and to acquisitions valued at or below the SAT. Failure to apply the new procedures and standards for responsibility determinations to these types of acquisitions would not accomplish the intended policy objective of the Executive Order. These procedures ensure the Government is able to enforce the disclosure requirements for significant and major contractors.

IV. Expected Impact of the Rule

This rule proposes to create a new standard of responsibility. Specifically, a prospective contractor that is a significant or major contractor will be presumed to be nonresponsible unless—

- Starting one year after publication of a final rule, the significant or major contractor (itself or through its immediate owner or highest-level owner) has completed a GHG inventory of its annual Scope 1 and Scope 2 GHG emissions, and the significant or major contractor has reported the total annual Scope 1 and Scope 2 emissions from its most recent inventory in SAM at <https://www.sam.gov>; and
- Starting two years after publication of a final rule, a major contractor (itself or through its immediate owner or highest-level owner) has submitted an annual climate disclosure within its current or previous fiscal year by completing those portions of the CDP Climate Change Questionnaire that align with the TCFD recommendations as identified by CDP (<https://www.cdp.net/en/guidance/how-cdp-is-aligned-to-the-tcf>) and has developed a science-based target and had the target validated by SBTi within the previous five calendar years.

When making a responsibility determination, a contracting officer will rely on the representation of a

prospective contractor in the revised solicitation provision at FAR 52.223-22 (or the equivalent representations in the commercial provision at FAR 52.212-3(t)) regarding whether the prospective contractor is a significant or major contractor and, if so, whether it is in compliance with the new disclosure and target requirements, as applicable. If a prospective contractor's representation indicates that it is a significant or major contractor, is not subject to an exception, and is not in compliance, then the contracting officer will request additional information from the prospective contractor regarding the efforts it has made to comply before making a responsibility determination, unless an exemption or waiver applies.

A. General Compliance Requirements.

1. Representations in SAM.

All offerors that register in SAM will be required to represent in paragraph (d)(1) of the provision at FAR 52.223-22 (or the equivalent representations in the commercial provision at FAR 52.212-3(t)(3)(i)) whether the offeror meets the definition of a significant or major contractor. An offeror is considered a "significant contractor" if the offeror received \$7.5 million or more, but not exceeding \$50 million, in Federal contract obligations in the prior Federal fiscal year. An offeror is considered a "major contractor" if the offeror received

more than \$50 million in Federal contract obligations in the prior Federal fiscal year. Only offerors that represent that they are a significant or major contractor will be required to complete the remaining representations in paragraphs (d) (2) through (d) (5) of the provision at FAR 52.223-22 (or the equivalent representations in the commercial provision at FAR 52.212-3(t) (3) (ii) through (v)).

An offeror will represent in paragraph (d) (2) of the provision whether the offeror meets an exception to the new policy per the new section at FAR 23.XX04. The contracting officer uses the offeror representations in this paragraph to determine if an offeror who represents in paragraph (d) (1) of the provision that it is a significant or major contractor is subject to the new disclosure and compliance requirements.

The representation in paragraph (d) (3) of the provision gathers information about whether a significant or major contractor (itself or through its immediate owner or highest-level owner) has completed within its current or previous fiscal year a GHG inventory of its annual Scope 1 and Scope 2 emissions. Offerors will be required to report in this representation the total Scope 1 and Scope 2 emissions identified in its most recent GHG inventory.

The representations in paragraph (d) (4) and (d) (5) of the provision gather information regarding whether a major

contractor (itself or through its immediate owner or highest-level owner) makes available on a publicly accessible website:

- An annual climate disclosure that was completed using the CDP Climate Change Questionnaire within its current or previous fiscal year; and
- A science-based target that has been validated by SBTi within the previous five calendar years.

An offeror that is a major contractor is also required to report in paragraph (e) of the provision at FAR 52.223-22 (or in paragraph (t)(4) of the commercial provision at FAR 52.212-3) the website(s) where the annual climate disclosure and validated science-based target are made publicly available. While the compliance requirements referenced in the last two representations at paragraphs (d)(4) and (d)(5) are only applicable to major contractors, both significant and major contractors will be required to complete these representations. This allows the Government to monitor whether significant contractors are taking steps to provide enhanced climate disclosures and to reduce their GHG emissions.

2. GHG inventory.

Starting one year after publication of a final rule, a significant and major contractor (or their immediate owner or highest-level owner) must follow the GHG Protocol Corporate Accounting and Reporting Standard (see section

II.D.1. of this preamble) to complete a GHG inventory of the Scope 1 and Scope 2 emissions. Starting two years after publication of a final rule, major contractors will also inventory relevant Scope 3 emissions. Companies completing a GHG inventory for the first time will often begin by reviewing accounting standards and methods, determining organizational and operational boundaries, and choosing a reporting and base year. They will collect data aligned to that year from across the business (including but not limited to fuel purchases, such as gasoline and heating oil, and electricity bills) and utilize a GHG calculator to determine the associated GHG emissions emitted across Scope 1, Scope 2, and (if applicable) relevant Scope 3 emissions expressed in MT CO₂e. Companies will likely develop a GHG Inventory Management Plan to formalize data collection procedures, in order to ensure consistency on an annual basis.

3. Annual climate disclosure.

Starting two years after publication of a final rule, a major contractor (or its immediate or highest-level owner) must provide an annual climate disclosure that aligns with the 2017 recommendations of the TCFD and the 2021 TCFD update (see sections II.B.2 and II.D.2. of this preamble). Companies following the TCFD recommendations will assess two types of climate risks: (1) transition risks associated with the transition to a lower-carbon

global economy, the most common of which relate to policy and legal actions, technology changes, market responses, and reputational considerations; and (2) physical risks emanating from climate change, which can be event-driven (acute) such as increased severity of extreme weather events (e.g., cyclones, droughts, floods, and fires) as well as longer-term shifts (chronic) in precipitation and temperature and increased variability in weather patterns (e.g., sea level rise).

The major contractor (or its immediate or highest-level owner) must provide its annual climate disclosures by completing those portions of the CDP Climate Change Questionnaire that align with the TCFD as identified by CDP (<https://www.cdp.net/en/guidance/how-cdp-is-aligned-to-the-tcfd>). Companies receive an invitation to disclose once annually through CDP on behalf of all investors, corporate customers, and/or Government customers requesting their response. Companies who have not received an invitation can indicate their intention to disclose as a "self-selected company (SSC)" by contacting respond@cdp.net. Companies complete and submit their response to the CDP Climate Change Questionnaire through CDP's online response system (ORS). The CDP Climate Change Questionnaire can be saved in draft form in the ORS, exported for internal completion and review, and then submitted through the ORS prior to the relevant deadline. CDP provides detailed guidance to

support companies in understanding and completing the questionnaire (see <https://www.cdp.net/en/guidance/guidance-for-companies>).

4. Science-based targets.

Starting two years after publication of a final rule, a major contractor will also be required to develop (itself or through its immediate or highest-level owner) a science-based target and have the target validated by SBTi.

Companies can commit to set a science-based target by submitting a letter to SBTi and will be recognized as "committed" on the SBTi website. Once committed, a company has 24 months to submit their targets to SBTi for validation. Companies independently develop their science-based target in line with science-based criteria (including sector-specific guidance, where relevant), which are available on the SBTi website

(<https://sciencebasedtargets.org/>). Companies then submit the science-based target to SBTi for validation. Validated targets are published one month after validation, unless otherwise instructed. Targets not receiving validation are provided with detailed feedback from expert reviewers and an opportunity to resubmit. Following validation, companies should disclose emissions annually and monitor progress on reaching the target.

B. Benefits.

The Federal Government is the world's single largest purchaser of goods and services, spending over \$650 billion in contracts in fiscal year 2020 alone. Public procurement can shift markets, drive innovation, and be a catalyst for adoption of new norms and global standards. Requiring significant and major contractors to publicly disclose their GHG emissions and requiring major contractors to publicly disclose their climate-related financial risk and set science-based reduction targets will give visibility to major annual sources of GHG emissions and climate risks throughout the Federal supply chain and could, in turn, provide insights into the entire U.S. economy. While disclosure alone does not reduce emissions and climate risk, the expectation of increased public transparency and accountability may prompt suppliers to take action following a "what gets measured gets managed" mantra, and thus increase the resilience of the Federal supply chain.

Several discrete categories of benefits are expected from this regulation to include: identifying areas for increased efficiency and reduced risks; understanding and reduction of supply chain vulnerabilities; aligning targets to address climate change; improved transparency, accountability, and ability of Federal agencies to collaborate with contractors; and increased efficiency of disclosure via standardization.

1. Identifying areas for increased efficiency and reduced risks.

Companies who are required to publicly disclose their GHG emissions and climate risks may be prompted to thoroughly investigate their operations and supply chains, which may, in turn, reveal opportunities to realize efficiencies and manage risks. Any efficiency improvements would, in turn, flow into the company's performance on Federal contracts. The activity data that is examined (e.g., fuel and electricity bills) to conduct a GHG inventory can reveal areas where efficiencies may be realized. After conducting a GHG inventory, many companies may choose to address sources of emissions. For example, the Federal Government's assessment of its GHG footprint has revealed the most significant areas of GHG emissions and climate risks across the Federal Government's own operations and supply chains, which prompted the Federal Sustainability Plan to establish ambitious programs to address them: zero emissions vehicles, carbon pollution free electricity, net zero buildings, and net zero procurement. Companies take widely varied approaches to managing operational efficiencies relevant to their GHG emissions, ranging from no action to opportunistic system upgrades to purchasing offsets to address emissions outside of a company's boundaries. By requiring the development, maintenance, and public disclosure of contractor GHG

inventories and reduction targets, this rule may prompt contractors to undertake a comprehensive analysis of their energy and fuel use, electricity procurement, and other emissions sources (e.g., refrigerants, agricultural and industrial activities), which may prompt action to invest in GHG management opportunities across their facilities, operations, and supply chains with multi-year paybacks. Well-managed contractors may choose to voluntarily manage GHGs and cost savings, but these expanded expectations will set a level playing field for a wider range of contractors to get started.

Those contractors who choose to address GHG emissions may experience benefits in cost savings, as shown by the Government's own experience as well as that of contractors who have voluntarily disclosed emissions. The Federal Government has tracked and publicly disclosed its Scope 1 and 2 emissions annually since 2008, while implementing targets for energy and water efficiency and emissions reduction. The Government's practice of setting and meeting these targets has led to a reduction of 32.2 percent in Federal agency emissions from standard operations since 2008, reduction in total annual energy use (including all facility and mobile sources) from approximately 1,143,000 Billion British thermal units (BBtu) in 2008 to 849,000 BBtu in 2020 (25 percent reduction), and a reduction of total annual energy costs from \$29.4 billion in 2008 to

\$17.1 billion in 2020 (reduction of \$12.3 billion annually, or 41.8 percent, in inflation-adjusted dollars). Similarly, in 2021, companies (including, but not limited to, Federal contractors) disclosing emissions and climate risk through the CDP disclosure system independently reported emissions and cost savings from emissions reduction activities implemented in the given reporting year; in aggregate, these benefits collectively amounted to 1.8 billion metric tons (MT) CO₂e in emissions reductions with over \$29 billion in associated cost savings for those suppliers. Public disclosure of this information in a standardized format creates a global database that can be utilized for tracking year-over-year progress, sharing ideas among companies with similar emissions profiles, and enabling benchmarking of performance.

2. Understanding and reduction of supply chain vulnerabilities.

In accordance with E.O. 14030, this proposed rule would require major contractors who have a significant share of Government business to identify their climate-related financial risks, including physical and transition risks. These risks could impact the contractor's business operations in the short, medium, and long-term. The required disclosures will prompt entities to investigate and understand these risks, develop plans to mitigate them, and communicate the risks and mitigation plans to the

public and Federal agencies. These disclosures will enable the Government to understand how and when the risks faced by major contractors (some of which are mission-critical) and their supply chains, including but not limited to increased likelihood of disruptive climate and weather events and material and energy cost fluctuations, may impact the agencies' own missions and activities. This understanding will increase the effectiveness of the Federal supply chain by enabling agencies to develop and improve their own plans to safeguard their assets and missions, ensuring uninterrupted provision of critical services to the U.S. public. Currently, the Federal Government and general public have significantly reduced visibility into the preparedness of major contractors upon whom the Government relies on for products and services (some of which are critical). For example, per a U.S. Government Accountability Office report (GAO-16-32, Federal Supply Chains: Opportunities to Improve the Management of Climate-Related Risks), in October 2012, Superstorm Sandy caused widespread damage to logistics and transportation networks throughout the Northeast, leading to major fuel shortages for agencies to overcome while providing critical Federal services, such as disaster relief and mail delivery, and causing an estimated \$70 billion in direct damages and lost economic output.

Mitigating the effects of climate change by reducing emissions can provide important economic, ecological, and social benefits by significantly reducing major risks to the U.S. economy. According to the U.S. Fourth National Climate Assessment (see Key Message 2, Chapter 29) published by the U.S. Global Change Research Program in 2018, a Congressionally mandated, joint report of thirteen U.S. agencies with research programs and expertise on changes in the global environment and their implications for society:

In the absence of more significant global mitigation efforts, climate change is projected to impose substantial damages on the U.S. economy, human health, and the environment. Under scenarios with high emissions and limited or no adaptation, annual losses in some sectors are estimated to grow to hundreds of billions of dollars by the end of the century. It is very likely that some physical and ecological impacts will be irreversible for thousands of years, while others will be permanent.

3. Aligning targets to address climate change.

The Federal Government has committed to reducing its Scope 1, 2, and 3 GHG emissions, including those associated with Federal procurement activities, to achieve a net zero economy by 2050. As the single largest purchaser in the world, Federal procurement represents both a substantial contribution to climate change emissions and a significant opportunity to reduce them. GSA has estimated that emissions from contractors performing Federal contracts are significantly greater (150 million MT CO₂e in Fiscal Year 2019) than emissions from Federal buildings and non-tactical fleets (37 million MT CO₂e) (see <https://www.gsa.gov/Governmentwide-initiatives/Federal->

highperformance-green-buildings/resource-library/sustainable-acquisition). The Federal Government has committed to a 65 percent reduction in its Scope 1 and 2 operational emissions by 2030 (from 2008 levels), demonstrating it is doing its part via internal operations to achieve the U.S. Nationally Determined Contribution of a 50-52 percent economy-wide reduction in emissions by 2030. In order to similarly reduce its much greater Scope 3 emissions, the Federal Government's best solution is to require that its major contractors quantify their GHG emissions and set science-based targets to align ambitions and identify areas for collaboration on shared goals.

According to the EPA, in addition to global or national economic benefits, forward thinking organizations also recognize internal benefits of setting and publicly disclosing GHG reduction targets, including increasing senior management attention and funding for investing in GHG reduction projects, encouraging innovation, improving employee morale, and helping to recruiting and retain qualified employees (see <https://www.epa.gov/climateleadership/target-setting>).

CDP's 2021 post-disclosure survey found that 76 percent of responding companies say climate disclosure helps "boost their competitive advantage" and 86 percent say that "protecting and improving the reputation of my

organization” is an important benefit of disclosure (see <https://www.cdp.net/en/companies-discloser>).

More than 3,600 companies globally, representing over one third of the global economy’s market capitalization, have voluntarily committed to setting science-based targets for reducing emissions (see <https://sciencebasedtargets.org/>). A 2018 survey of 185 company executives from SBTi-committed businesses found that 79 percent of companies experienced a brand reputation boost, 63 percent saw an increase in innovation, 55 percent reported that preparing for a low-carbon transition led to a newly earned competitive advantage (see <https://sciencebasedtargets.org/blog/six-business-benefits-of-setting-science-based-targets>). Companies with targets validated by SBTi are reducing emissions at an accelerating pace, collectively achieving 12 percent Scope 1 and 2 emissions reduction in 2020 and a total emissions decrease of 29 percent between 2015 and 2020. According to SBTi’s science-based target setting methodologies, an annual emissions reduction of at least 4.2 percent is required to align organizations with the Paris Agreement goal of 1.5°C maximum global temperature rise (see <https://sciencebasedtargets.org/reports/sbti-progress-report-2021>). Requiring that major contractors set, disclose, and maintain validation of such ambitious climate targets can thus be an effective tool for addressing the

Federal Government's Scope 3 emissions and associated risks of climate change to the national economy, while providing economic and other benefits to the contractors themselves.

4. Improved transparency, accountability, and ability to collaborate with suppliers.

Without knowledge of existing "hot spots" (emissions-intensive sectors and activities) and cost-effective emissions reduction opportunities, it may be difficult for Federal agencies and contractors to understand where to start in seeking to reduce emissions, how to prioritize emissions reduction programs and activities, and how much to invest in each. Public disclosure provides transparency into the historical costs and impacts of organizational strategies and activities, the current management strategies of peer and partner organizations, and their future-focused targets. Disclosure of climate risks and management strategies enables benchmarking and collaborative opportunities (1) between Federal contractors and (2) between contractors and the Government, thereby increasing economy of efforts. Public disclosures thus benefit collective accountability for the shared challenge of addressing climate change throughout the global economy and enable transparent tracking of progress over time.

Furthermore, for companies with significant Scope 3 emissions, supply chain engagement can be an opportunity for further efficiency, collaboration and innovation. In

2021, of the 13,000 companies reporting through CDP, 71 percent of companies reported their Scope 1 and 2 emissions, while only 20 percent reported emissions associated with products and goods they purchase (Scope 3). However, Scope 3 emissions for a company are, on average, over 11 times higher than operational emissions. Companies can calculate Scope 3 emissions using a hybrid approach of disclosed and modeled data that improves over time as data quality and supplier engagement improve. Only 38 percent of companies who disclose through CDP currently report that they engage their own suppliers on sustainability, however those who do engage suppliers realize significant cost and emissions savings; companies engaging their suppliers through CDP resulted in a reduction of 231 million tons of CO₂e in 2021. Supplier engagement represents an opportunity for many companies to drive additional benefits for the Federal government and national economy by encouraging contractors to work with their suppliers, contractors, and other entities in their supply chains to identify cost-effective ways to reduce emissions. Through this rule, the Federal Government will communicate to its prospective contractors and their supply chains that transparent disclosure and management of supply chain GHG emissions and climate risk can be a matter of social license to operate and contractual access to important

customers, thus multiplying the potential for reducing energy costs and associated emissions.

5. Increased efficiency of disclosure via standardization.

In addition to the above benefits, this rule will lead to increased efficiency in the processes and industries by which major contractors disclose climate related financial risks. By aligning with global standards such as the TCFD recommendations and SBTi target-setting methodologies, as well as the leading centralized data platform CDP (which implements and is aligned with TCFD), this rule will reinforce existing industry trends toward standardization around these systems, which are already used by large numbers of U.S. companies because they are required in order to meet the demands of other entities, such as non-Federal customers and investors. The standards and systems required by this rule will thus allow affected companies to develop disclosures that efficiently meet multiple requirements for Federal procurement (this rule), access to capital markets (investors' needs), and other existing market requirements (such as ratings and rankings systems). Much of this standardization to date has occurred outside of the Federal Government, led by NGOs, investors, companies and ratings and rankings platforms as well as cities, states, and other national governments. As discussed in section I. of this preamble, the SEC recently

proposed a regulation that if adopted would require similar annual disclosures of climate related financial risk for SEC registrants, including publicly listed/traded companies, many of whom are also Federal contractors. To the extent that there may be alignment between the SEC's proposed rule and this rule if both are adopted, companies making these disclosures and users of the information (e.g., the Federal Government, investors, and other entities) will benefit from greater standardization of climate-related disclosures.

C. Estimated public costs.

The total estimated public costs associated with this FAR rule in millions over a ten-year period (calculated at a 3-percent and 7-percent discount rate) are as follows:

Estimated Costs	3% Discount Rate	7% Discount Rate
Present Value	\$3,935	\$3,262
Annualized	\$461	\$464

The following is a summary from the Regulatory Impact Analysis (RIA) of the estimated costs impact for each general compliance requirement on significant and major contractors (see section II.A. of this preamble). The full RIA is available at <https://www.regulations.gov> (search for "FAR Case 2021-015" click "Open Docket," and view "Supporting Documents"). The RIA includes a detailed discussion of the assumptions and methodologies used to

estimate the cost of this regulatory action, including the specific impact and costs for small businesses. On March 15, 2021, the SEC's Acting Chair Allison Herren Lee posted a request for information (RFI) on costs associated with preparation of annual climate disclosures for consideration in the development of their proposed rule (see discussion in section I of this preamble). Several respondents to the RFI provided specific cost data for companies that currently provide annual climate disclosures that align with the TCFD or other voluntary disclosure frameworks. Additionally, consulting firms submitted information on prices charged for associated climate consultant services. The cost information considered by the SEC in their proposing release was used to estimate the potential costs of this proposed FAR rule. This includes information provided in response to the RFI and information from the impact assessment produced by the United Kingdom (UK) Department for Business, Energy & Industrial Strategy, as part of its Green Finance Strategy, for a UK rule that requires certain TCFD-aligned disclosures from suppliers (see https://assets.publishing.service.gov.uk/Government/uploads/system/uploads/attachment_data/file/1055931/tcfd-final-stage-ia.pdf).

1. Regulatory familiarization.

Regulatory familiarization includes the amount of time and effort it takes a company to become familiar with the requirements of the proposed rule and the references standards. A page count of the rule, the various standards, the CDP Climate Change Questionnaire, and the SBTi Guidance is used to calculate the cost for regulatory familiarization. We assume individuals who review the documents will spend 6 minutes per page. Significant contractors (regardless of business size) and major contractors that are small businesses will be required to become familiar with the requirements of this rule and the GHG Protocol Corporate Standard (except Scope 3 guidance). The total page count is 360 pages, which take 36 hours per person to review ($360 \text{ pages} \times 0.1 \text{ hours/page}$). Major contractors that are other than small business will be required to become familiar with the rule and all GHG Protocol, TCFD, CDP, and SBTi guidance referenced in this rule. The total page count is 967 pages, which take 97 hours per person to review ($967 \text{ pages} \times 0.1 \text{ hours/page}$ rounded to the nearest whole number). The per entity and total costs are summarized as follows:

- For a significant contractor that is other than a small business, it is estimated that 1 manager at a rate of \$94 per hour, 1 management analyst at a rate of \$77 per hour, and 2 business specialists at a rate of \$61 per hour will review the relevant

documents, a total cost of \$10,548 per contractor.

The total estimated cost for regulatory

familiarization in the first year of implementation

is \$16,644,744 (1,578 contractors *

\$10,548/contractor).

- For a significant contractor that is a small business, it is estimated that 1 manager and 1 management analyst will review the relevant documents, a total cost of \$6,156 per contractor. The total estimated cost is \$17,452,260 (2,835 contractors * \$6,156/contractor).
- For a major contractor that is other than a small business, it is estimated that 1 manager, 2 management analysts, and 4 business specialists will review the relevant documents, a total cost of \$47,724. The total estimated cost is \$46,005,936 (964 contractors * \$47,724/contractor).
- For a major contractor that is a small business, it is estimated that 1 manager and 1 business specialist will review the relevant documents, a total cost of \$8,928 per contractor. The total estimated cost is \$17,452,260 (389 contractors * \$8,928/contractor).

2. Annual representations.

All 491,690 entities that are registered in SAM as interested in pursuing Government contracts, of which

364,290 entities are considered small for their primary NAICS code, will be required to complete the first representation in SAM for the provision at FAR 52.223-22(d)(1) and/or the commercial provision at FAR 52.212-3(t)(3)(i) regarding whether they meet the definition of a significant or major contractor. It is estimated that, on average for each registration, it will take a business specialist six minutes at an hourly rate of \$61 to determine whether they meet the definition of a significant or major contractor. The total estimated annual cost is \$2,999,309 (491,690 registrants * 0.1 hours/registrant * \$61/hour), of which \$2,222,169 is attributed to 364,290 small businesses. The estimated cost to complete the representation is the same in subsequent years.

The 5,766 significant and major contractors expected to be impacted by this rule will be required to complete the remaining representations regarding whether the offeror meets an exemption and whether the offeror (itself or through its immediate owner or highest-level owner) has completed the GHG inventory of scope 1 and 2 emissions, made an annual climate disclosure via CDP, and set science-based targets. It is estimated that, on average for each registrant, it will take a business specialist one hour to complete the remaining representations. The total estimated annual cost is \$351,726 (5,766 registrants * 1 hour/registrant * \$61/hour), of which \$196,664 is

attributed to 3,224 small businesses. The estimated cost to complete the representations is the same in subsequent years.

3. GHG inventory of Scope 1 and 2 emissions.

The following is a summary of the costs for significant contractors (regardless of size) and major contractors (small businesses only) to complete inventories of their Scope 1 and Scope 2 emissions. It is expected that a contractor will use a mix of internal personnel and external consultants to complete the annual greenhouse gas inventory. Internal personnel costs include the cost for contractor employees to gather, compile, and review GHG emissions data. A contractor may use external consultants to assist with, and advise on, GHG inventories. It is also assumed that contractors will see a 25 percent reduction in burden after the first year of implementation.

For a significant contractor that is other than a small business, it is estimated that it takes two business specialists 40 hours each at an hourly rate of \$61 to gather information, one management analyst 20 hours at an hourly rate of \$77 to process and compile the information, and one senior manager 2 hours at an hourly rate of \$94 to review the compiled information. It is estimated that a significant contractor that is other than a small business will require approximately 409 external consultant hours at an hourly rate of \$104. The total estimated cost per entity

is \$63,868 in the initial year of implementation and \$47,983 annually thereafter.

For significant and major contractors that are small businesses, it is estimated that it will take half as much time to conduct a GHG inventory, or 20 hours for one business specialist, 10 hours for one management analyst, and 1 hour for one senior manager. These contractors are also estimated to require approximately 153 external consultant hours. The total estimated cost per entity is \$24,724 in the initial year of implementation and \$18,640 annually thereafter.

Therefore, for the 1,578 other than small business significant contractors, the total estimated cost to conduct Scope 1 and 2 GHG inventories is \$100,783,704 (1,578 contractors * \$63,868/contractor) in the initial year of implementation and \$75,717,174 (1,578 contractors * \$47,983/contractor) annually thereafter. For the 2,835 significant contractors and 389 major contractors that are small businesses, the total estimated cost is \$79,710,176 (3,224 contractors * \$24,724/contractor) in the initial year of implementation and \$60,095,360 (3,244 contractors * \$18,640/contractor) annually thereafter.

4. Annual climate disclosure and science-based targets.

The estimate of internal and external costs for major contractors that are other than small businesses to prepare

an annual climate disclosure, submit the disclosure via the CDP Climate Change Questionnaire, set a science-based target, and have the target validated by SBTi, is based on cost information shared by respondents in response to the RFI. The RIA available at <https://www.regulations.gov> (search for "FAR Case 2021-015" click "Open Docket," and view "Supporting Documents") includes a summary of the respondent information and assumptions made to estimate these costs. As stated in the SEC proposed rule, the respondents to the RFI provided information on general costs for climate disclosures. Some respondent estimates included costs for activities not covered by this rule, which is similar to the FAR rule. Other respondents provided an aggregate cost estimate making it difficult to determine how representative the costs are. Actual costs for individual contractors impacted by this rule may vary significantly depending on the contractor's size, industry, business model, corporate structure, level of experience with climate disclosures, etc.

Approximately 671 of the 964 major contractors that are other than small businesses currently represent that they do not publicly disclose information about their emissions or reduction goals. As such, it is assumed that these contractors have no experience with climate disclosures or targets. It is estimated that these contractors will have internal personnel costs of

approximately \$257,103 and external consultant costs of approximately \$201,600, a total of \$458,703 per contractor in the first year of implementation. The estimated annual cost after the first year is \$412,825, a 10 percent reduction. These contractors will also be required to pay a \$9,500 fee for SBTi to validate their science-based target every five years, an annualized cost of \$1,900 per year. Therefore, the total estimated cost for these major contractors is \$309,064,613 ($671 * \$460,603/\text{contractor}$) in the initial year of implementation, and \$278,280,475 ($671 * \$414,725/\text{contractor}$) annually thereafter.

Of the 964 major contractors that are other than small business, approximately 293 represent that they do publicly disclose information about their emissions. An analysis of the websites reported by these major contractors indicates that there are 122 distinct disclosures associated with these 293 contractors. In other words, of the 293 contractors, approximately 42 percent appear to be disclosing data attributed to (or compiled by) their immediate or highest-level owner, whereas the other 58 percent are performing the calculations and compiling the climate disclosures directly. Given that these major contractors (or their owners) already have policies and procedures in place to inventory and publicly disclose their emissions (and in many cases to also set and disclose reduction goals), the burden associated with complying with

this FAR rule is estimated to be 50 percent of the cost of starting with no prior disclosure experience. Therefore, it is estimated that the internal personnel and external consultant costs associated with these disclosures is approximately \$229,390 in the first year of implementation and \$206,451 annually thereafter. The \$9,500 SBTi fee for validation of the science-based target also applies. Therefore, the total estimated costs attributed to this rule for the major contractors that currently disclose either themselves or through an immediate or highest-level owner is \$28,217,380 (122 disclosing entities * \$231,290/entity) in the initial year of implementation and \$25,418,822 (122 disclosing entities * \$208,351/entity) annually thereafter.

5. Summary of public costs.

The total estimated cost of compliance with this proposed rule is \$604,702,840 in the initial year of implementation and \$442,826,866 annually thereafter.

D. Estimated Government costs.

The total estimated Government costs associated with this FAR rule in millions over a ten-year period (calculated at a 3-percent and 7-percent discount rate) are as follows:

Estimated Costs	3% Discount Rate	7% Discount Rate
Present Value	\$10	\$8
Annualized	\$1	\$1

This is a summary of the costs associated with this proposed rule. Additional information on this cost estimate in the RIA available at <https://www.regulations.gov> (search for "FAR Case 2021-015" click "Open Docket," and view "Supporting Documents").

1. Updates to SAM.

The Government will be required to update the representations associated with FAR 52.223-22 and 52.212-3 in SAM. The adjustment to the representation is considered a medium level of effort that will cost approximately \$260,000 to complete.

2. Workforce development.

Government contracting officers will need to become familiar with the new policy at FAR 23.XX, the new standard of responsibility at FAR 9.104, and the representations in the provisions at FAR 52.223-22 and 52.212-3. The procedures at FAR 23.XX05 provides tables to help contracting officers evaluate offeror representations. Similarly, FAR 9.104-3(e) includes information on the type of information a contracting officer should request from an offeror that represents that it is in compliance with the new policy and the minimum requirements that must be met in order to determine a contractor responsible. No specialized training is required for Government contracting officers. The requirement to remain current on policies for

Government procurement, such as changes to the FAR, is considered a part of the normal duties of contracting personnel. As such, this analysis does not quantify the time and effort for contracting officers to become familiar with the rule. In addition, there are Federal resources allocated to assisting small businesses in procurement, particularly in the Small Business Administration. It is acknowledged that this there is time and effort for these Federal workforces to become familiar with the rule or the tools available and to assist contractors with compliance, though those potential burden hours and costs are not quantified.

3. Responsibility determinations.

Starting one year after publication of a final rule, Government contracting officers will begin validating prospective contractor representations for FAR 52.223-22(d) and 52.212-3(t)(3) to ensure that significant and major contractors have completed the GHG inventory of Scope 1 and 2 emissions. Starting two years after publication of a final rule, contracting officers will also validate that major contractors have completed annual climate disclosures and set a science-based targets. For each award, the contracting officer will log into <https://www.sam.gov>, search "Entity Information" for the prospective contractor, select the prospective contractor's registration, click on "Reps and Certs," and (depending on the type of

acquisition) click on FAR 52.212-3 or 52.223-22 to view the offeror's representations. If the prospective contractor represents that it is a significant or major contractor, then it must complete all of the remaining representations in the solicitation provision. The contracting officer may use the tables at FAR 23.XX05, Procedures, to assist in determining whether the prospective contractor is subject to an exception and, if not, whether the prospective contractor complies with the policy. Per FAR 23.XX05(c), a contracting officer may rely on these representations when making a responsibility determination, unless the contracting officer has reason to question the representation. If a representation indicates noncompliance, then the contracting officer will request additional information from the prospective contractor to assist in making a responsibility determination.

It is not possible to quantify how often contracting officers will need to request additional information from prospective contractors. Most offerors registering in SAM will represent that they are not a significant or major contractor. It is expected that the majority of significant and major contractors will represent that they are in compliance with the new policy. While it will take longer for a contracting officer to review the representations for a significant or major contractor, it is estimated that it will take the contracting officer three minutes to review

most representations. According to FPDS data for FY 2021, there were approximately 276,467 awards valued over the micro-purchase threshold, where contracting officers would be required to make a responsibility determination prior to awarding a contract. We assume that the majority of responsibility determinations are made by a GS-12 / step 5 contracting officer at a loaded rate of \$66 per hour. Therefore, the total estimated cost is \$912,341 (276,467 awards * 0.05 hours/award * \$66/hour).

4. Policy development.

Contract policy offices for Government departments and agencies will need to develop procedures for requesting senior procurement executive (SPE) approval of waivers in accordance with FAR 23.XX06(b). Specifically, the SPE approve a waiver for specific facilities, business units, or other defined units for national security purposes or for emergencies, national security, or other mission essential purposes. In addition, the SPE may approve a waiver to enable a significant or major contractor to come into compliance with the policy at 23.XX03 for a period not to exceed 1 calendar year. Such waivers must be made publicly available on the agency's website. Developing policies and procedures to support the contracting activities of a department or agency are considered a part of the normal course of doing business for contract policy offices. As such, this analysis does not quantify the time

and effort for contracting officers to become familiar with the rule.

5. Analysis of annual climate disclosures.

The Government will also use the disclosures made pursuant to this FAR rule to inform development of policies and programs to reduce climate risks and GHG emissions associated with Federal procurement activities, and to incentivize and enable technologies critical to achieving a national economy and industrial sector that are resilient to the physical and transition risks of climate change and net zero emissions by 2050. As stated in OMB Memo M-22-06, to assist the Federal Government in assessing the results of efforts to reduce supply chain emissions, and as requested by CEQ and OMB, GSA will provide periodic recommendations on further actions to reduce supply chain emissions, based on information and data collected through supplier disclosures pursuant to this FAR rule and other publicly available information. The estimated annual cost for the Government to obtain a report of the data disclosed to CDP is \$47,000. GSA further estimates that the annual cost to analyze the data provided is approximately \$200,000.

6. Summary of Government costs.

The total estimate cost to the Government in the initial year of implementation is \$1,419,341. This includes the costs to update SAM, for reviewing offeror

representations, and analyzing annual climate disclosure information. In subsequent years, the estimate cost to the Government is \$1,159,341, which includes only the cost for reviewing offeror representations and analyzing annual climate disclosure information.

E. Total estimated costs.

The total estimated overall costs associated with this FAR rule in millions over a ten-year period (calculated at a 3-percent and 7-percent discount rate) are as follows:

Estimated Costs	3% Discount Rate	7% Discount Rate*
Present Value	\$3,945	\$3,270
Annualized	\$462	\$466

* Total of Government and public costs is higher due to rounding.

F. Alternatives considered.

The Government considered other mechanisms for enforcement of the compliance requirements. One alternative was to use a contract clause to require submission of the GHG inventory, annual climate disclosure, and validated science-based target as a deliverable under Government contracts. However, given the intent to require disclosure at the entity-level, disclosure on a contract-by-contract basis is not appropriate.

The Government also considered making noncompliance a go/no-go decision for award. In this alternative, a significant or major contractor would be ineligible for

award of Government contracts unless the significant or major contractor represents that it complies with the new policy. The Government ultimately determined that treatment of contractor compliance as a matter of responsibility, not only establishes the Government's position that responsible contractors take action to address and reduce climate-related financial risk, but also allows contracting officers some flexibility to determine what actions a noncompliant contractor has taken to comply.

The Government also considered the following thresholds when establishing a definition of "major Federal supplier," the term used in E.O. 14030: \$7.5 million, \$50 million, and \$250 million. The Government also considered whether the threshold should be based on the total Government contract award value, or the total Government contract funds obligated. Currently, many larger Federal suppliers provide some disclosure, but few set science-based targets. Even fewer smaller suppliers disclose GHG emissions and climate-related risk, and science-based targets are very rare. Ultimately, the Government settled on dual thresholds to ensure smaller Federal suppliers (i.e., "significant contractors" with \$7.5 million to \$50 million in obligations in the prior FY) take steps to understand their GHG emissions and the larger Federal suppliers (i.e., "major contractors" with more than \$50 million in obligations in the prior FY) take steps to

disclose climate-related financial risks and to reduce their GHG emissions.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is anticipated to be an economically significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801-808) before an interim or final rule takes effect, DoD, GSA, and NASA will send the rule and the "Submission of Federal Rules Under the Congressional Review Act" form to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This proposed rule is anticipated to be a major rule under 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD, GSA, and NASA expect this rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612. An Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

DoD, GSA, and NASA are proposing to amend the FAR to implement section 5(b)(i) of E.O. 14030, Climate-Related Financial Risk. Section 5(b)(i) of the E.O. directs the Federal Acquisition Regulatory Council to ensure that major Federal suppliers publicly disclose their greenhouse gases and climate-related financial risk and set science-based targets.

The objective of this rule is to implement the E.O. by creating a new FAR subpart at 23.XX, which establishes the requirement for a major Federal supplier to publicly disclose certain climate information. For the purposes of this rule, a major Federal supplier is categorized as either a significant contractor or a major contractor. A significant contractor is an offeror who received \$7.5 million or more, but not exceeding \$50 million, in Federal contract obligations in the prior Federal fiscal year. A major contractor is an offeror who received more than \$50 million in Federal contract obligations in the prior Federal fiscal year. The legal basis for this rule is 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

Per the new policy proposed at 23.XX03, a contracting officer will presume that an offeror who is a significant or major contractor is nonresponsible unless—

- Starting one year after publication of a final rule, the significant or major contractor (itself or through its immediate owner or highest-level owner) has completed a GHG inventory of the annual Scope 1 and Scope 2 GHG emissions within its current or previous fiscal year, and the significant or major contractor has reported the total annual Scope 1 and Scope 2 emissions from its most recent inventory in SAM at <https://www.sam.gov>; and
- Starting two years after publication of a final rule, the major contractor (itself or through its immediate owner or highest-level owner) has submitted an annual climate disclosure within its current or previous fiscal year by completing those portions of the CDP Climate Change Questionnaire that align with the TCFD and has developed a science-based target and had the reduction target validated by SBTi within the previous five calendar years.

This proposed rule provides exceptions at FAR 23.XX04(a). A significant or major contractor is not required to complete a GHG inventory of Scope 1 and Scope 2 emissions, if it is one of the following: an Alaska Native Corporation, a Community Development Corporation, an Indian tribe, a Native Hawaiian Organization, or

a Tribally owned concern, as those terms are defined at 13 CFR 124.3; a higher education institution (defined as institutions of higher education in the OMB Uniform Guidance at 2 CFR part 200, subpart A, and 20 U.S.C. 1001); a nonprofit research entity; or, an entity deriving 80 percent or more of its annual revenue from Federal M&O contracts that are subject to agency annual site sustainability reporting requirements. Per 23.XX04(b), a major contractor who is registered in SAM as a small business for its primary NAICS code or is a nonprofit organization, is exempt from the requirement to complete an annual climate disclosure and to set a science-based target.

This proposed rule will revise the annual representations in the provisions at FAR 52.223-22 and 52.212-3 to collect information a contracting officer will need to determine whether an offeror is a significant or major contractor is in compliance with the new policy. The contracting officer will follow the proposed procedures at FAR 23.XX05 and FAR 9.104-3(e) when making the responsibility determination.

According to SAM, as of January 2022, 491,690 entities are registered in SAM, of which approximately 364,290 (74 percent) were registered as small for their primary NAICS code. According to award data available in FPDS for FY 2021, there were approximately 4,413 entities that meet the definition of a significant contractors and are not subject to an exception, of which 2,835 (64 percent) are estimated to be small businesses. There were approximately 1,353 entities that meet the definition of a major contractor, of which 389 (29 percent) are estimated to be small businesses.

SAM registrants will be required to complete annual representations and certifications in SAM will be required to complete the first representation in FAR 52.223-22(d)(1) (or the equivalent representation in the commercial provision in FAR 52.212-3(t)(3)(i)) regarding whether the registrant meets the definitions of a significant or major contractor. A registrant that represents that it is a significant or major contractor, will be required to complete the remaining representations in FAR 52.223-22(d)(2) through (5) (or equivalent representations in FAR 52.212-3(t)(3)(ii) through (v)) regarding whether they have conducted a GHG inventory, made an annual climate disclosure, and a set science-based target. Starting one year after publication of a final rule, significant or major contractors will be required to have conducted (itself or through its immediate or highest-level owner) within its current or previous FY a GHG inventory of its annual Scope 1 and 2 emissions and reported in SAM the results of its most recent inventory.

A significant or major contractor that represents that it has not conducted a GHG inventory of its annual Scope 1 and Scope 2 emissions or has not provided the results of the most recent inventory in SAM, will be presumed to be a nonresponsible prospective contractor. In such cases the contracting officer will follow the proposed procedures at FAR 9.104-3(e) and seek information from the significant contractor on the efforts it has made to comply before making a responsibility determination. Per the existing procedures at FAR 9.104-3(d)(1), upon making a determination of nonresponsibility with regard to a small business concern, the contracting officer shall refer the matter to the Small Business Administration, which will decide whether to issue a Certificate of Competency (see FAR subpart 19.6).

A RIA has been prepared for this proposed FAR rule, which includes a detailed discussion and explanation about the assumptions and methodology used to estimate the cost of this regulatory action, including the specific impact and costs for small businesses. Costs for small businesses expected to be impacted by this rule include the cost of regulatory familiarization, completing the annual SAM representations, and conducting the Scope 1 and 2 GHG inventory each year. The total estimated cost to small businesses is \$103,054,261 (17 percent of the total estimated public costs) in the initial year of implementation and \$62,514,193 (14 percent of the total estimated public cost) in subsequent years. The following is a summary of the estimated cost of per entity for small business significant and major contractors:

Estimated Cost of Compliance per Entity				
Entity Type	Significant Contractor		Major Contractor	
Compliance Requirement	Initial Year	Subsequent Years	Initial Year	Subsequent Years
Familiarization	\$6,156	N/A	\$8,928	N/A
First SAM Rep	\$6	\$6	\$6	\$6
Other SAM Reps	\$61	\$61	\$61	\$61
GHG Inventory	\$24,724	\$18,640	\$24,724	\$18,640
Total Cost	\$30,947	\$18,707	\$33,719	\$18,707

A summary of the RIA is provided in section IV. of this preamble. The full RIA is available at <https://www.regulations.gov> (search for "FAR Case 2021-015" click "Open Docket," and view "Supporting Documents").

The SEC is proposing to require climate-related financial risk disclosures from SEC registrants, including publicly listed/traded companies (see 87 FR 21334, April 11, 2022). Both the SEC proposed rule and the FAR proposed rule leverage the GHG Protocol Corporate Accounting and Reporting Standard; therefore, the rules are considered to be in alignment. Per the exceptions at FAR 23.XX04(b), the requirement to provide an annual climate disclosure and set a science-based target is not applicable to a company that is registered in SAM as a small business for its primary NAICS code.

The burden imposed on small entities is the minimum necessary to implement the requirements of section 5(b) (i) of E.O. 14030. To minimize the burden on Federal contractors, this rule leverages standards that are widely used by companies to inventory their GHG emissions and analyze their climate risks. Efforts were also taken to align with the approach of the SEC proposed rule, which further minimizes burden for small businesses. As a result of this rule, a small business that received \$7.5 million in Federal contract obligations in the prior Federal fiscal year is considered a significant contractor and will be required to complete the GHG inventory of Scope 1 and Scope 2 emissions. However, those entities that received more than \$50 million in Federal contract obligations in the prior Federal fiscal year (a major contractor) and are registered in SAM as a small business for their primary NAICS code are exempt from the requirement to complete an annual climate disclosure and set a science-based target. Several alternatives were considered but not accepted as they would not accomplish the intended policy objective of the E.O. The alternatives considered include:

- *Exemption for small business.* One alternative considered was an exemption for small businesses who are

significant contractors from the requirement to inventory and publicly disclose their Scope 1 and 2 emissions. It was determined that the limited Scope 1 and 2 reporting will be beneficial for these small businesses and the Government. By inventorying their Scope 1 and 2 emissions, small businesses—including those that are not “carbon intensive” can find opportunities to minimize climate risks both in their operations and their own supply chains. This rule will also prepare these small businesses to respond to requests for similar data from customers besides the Federal Government. It is also beneficial for the Government to collect this data from these small businesses to have a more complete understanding of the impact of GHG emissions on the Federal supply chain and to calculate its own emissions and set its own reduction targets.

- *Delayed or rolling compliance dates.* Another alternative considered was a delay in the effective date of the Scope 1 and 2 reporting requirements for small business significant contractors. Consideration was given to a two-year delay, or a rolling effective date based on Federal contract obligations in the prior fiscal year. Ultimately, it was determined that given the widely adopted and simple exercise of quantifying Scope 1 and 2 emissions, and the E.O. target of a net-zero emissions economy by no later than 2050, it may be confusing to have separate tiers and timelines for significant contractor reporting while failing to advance the E.O.’s stated goals. Furthermore, since GHG emissions inventory occurs once a year retroactively based on the previous year’s data, no additional actions or changes to business practice would need to be taken to prepare for this reporting, and thus there would be no minimized burden from a delay.
- *Use other sources of data.* Other sources of data on Scope 1 and 2 emissions were also considered, such as current CDP data, corporate websites, and/or corporate reports. Third party “modeled emissions” using industry averages were also considered. However, it was determined that this alternative would not advance the stated target of the E.O. for a variety of reasons: the lack of standardization, reduced accuracy of models to capture the actual business practices unique to producing goods and services for the Federal Government, and the lack of GHG emissions reporting by many small businesses. Furthermore, the burden to comply with this proposed rule for small businesses who currently inventory their GHG emissions will be extremely low, only requiring two numbers the entity has already generated (or are easily calculated using free Excel tools) to be entered into SAM.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be

obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2021-015), in correspondence.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501-3521) applies because the proposed rule contains information collection requirements. Accordingly, the Regulatory Secretariat Division has submitted to OMB a request for approval of a revision to "OMB Control Number 9000-0107, Federal Acquisition Regulation Part 23 Requirements" concerning the information collection requirements in the provision at FAR 52.223-22 or its equivalent at FAR 52.212-3(t).

A. Public Reporting Burden.

Public reporting burden for the following collections of information include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information in the provision at FAR 52.223-22

or its equivalent at 52.212-3(t). The contracting officer uses this information to determine whether a prospective contractor is a significant or major contractor and, if so, if the prospective contractor is responsible (see FAR 9.104-3(e)). A prospective contractor that is a significant or major contractor is presumed to be nonresponsible if it represents that it is not in compliance with the GHG inventory, annual climate disclosure, and science-based target setting requirements, as applicable. In such situations the contracting officer will ask for additional information from the prospective contractor to determine what efforts have been made to comply. The Government will also use the disclosures made pursuant to this FAR rule to inform development of policies and programs to reduce climate risks and GHG emissions associated with Federal procurement activities, and to incentivize and enable technologies critical to achieving a national economy and industrial sector that are resilient to the physical and transition risks of climate change and net zero emissions by 2050. As stated in OMB Memorandum M-22-06, to assist the Federal Government in assessing the results of efforts to reduce supply chain emissions, and as requested by CEQ and OMB, GSA will provide periodic recommendations on further actions to reduce supply chain emissions, based on information and data collected through supplier disclosures

pursuant to this FAR rule and other publicly available information.

1. First Representation

The representations in the provision at FAR 52.223-22 (and the commercial equivalent at FAR 52.212-3(t)) are being revised to require an offeror, when initially registering or when updating a registration in SAM at <https://www.sam.gov>, to represent whether it is a significant or major contractor. A significant contractor is an offeror who received \$7.5 million or more in Federal contract obligations in the prior Federal fiscal year. A major contractor is an offeror who received \$50 million or more in Federal contract obligations in the prior Federal fiscal year. Public reporting burden for this collection of information is estimated to average 0.1 hours per response. The annual reporting burden is estimated as follows:

Respondents: 491,690.
Total Annual Responses: 491,690.
Total Burden Hours: 49,169.

2. Remaining Representations.

If the offeror represents that it is a significant or major contractor, then the offeror is required to complete additional representations in the provision regarding whether it meets an exception and whether it has (itself or through its immediate owner or highest-level owner) completed a GHG inventory of Scope 1 and 2 emissions, provided an annual climate disclosure, and set a science-

based target. If an offeror represents that it publicly discloses an annual climate disclosure or science-based target, it also must report the websites where disclosures and targets are made publicly available. Public reporting burden for this collection of information is estimated to average one hour per response. The annual reporting burden is estimated as follows:

Respondents: 5,766.
Total Annual Responses: 5,766.
Total Burden Hours: 5,766.

3. GHG Inventory of Scope 1 and 2 Emissions.

Unless an exception at 23.XX04(a) applies, a significant or major contractor must (itself or through its immediate owner or highest-level owner) conduct a GHG inventory of the annual Scope 1 and Scope 2 emissions. The significant or major contractor itself must report the results of the most recent GHG inventory in SAM. Public reporting burden for the GHG inventory of Scope 1 and 2 emissions is estimated to average approximately 255 hours per response. The annual reporting burden is estimated as follows:

Respondents: 4,802.
Total Annual Responses: 4,802.
Total Burden Hours: 1,222,983.

4. Annual Climate Disclosure and Science-Based Targets.

Unless an exception at 23.XX04(b) applies, a major contractor must submit an annual climate disclosure and set

science-based targets. To make the annual climate disclosure, the major contractor must (itself or through its immediate owner or highest-level owner) conduct a GHG inventory of relevant Scope 3 emissions (in addition to the Scope 1 and 2 inventory), conduct a climate risk assessment, develop disclosures aligned with the Recommendations of the Task Force on Climate Related Financial Risk, and complete relevant portions of the CDP (formerly Carbon Disclosure Project) Climate Change Questionnaire within its previous or current fiscal year. The major contractor must (itself or through its immediate owner or highest-level owner) also set science-based targets to reduce its emissions and have the science-based targets validated by SBTi within the previous five calendar years. A major contractor will likely support its preparation of the disclosure and setting targets. Public reporting burden for the annual climate disclosure is estimated to average approximately 1,946 hours per response. The annual reporting burden is estimated as follows:

Respondents: 793.
Total Annual Responses: 793.
Total Burden Hours: 3,265,025.

B. Request for Comments Regarding Paperwork Burden.

Submit comments on this collection of information no later than **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]** through <https://www.regulations.gov> and

follow the instructions on the site. All items submitted must cite OMB Control No. 9000-0107, Federal Acquisition Regulation Part 23 Requirements. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

Public comments are particularly invited on:

- The necessity of this collection of information for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility;
- The accuracy of the estimate of the burden of this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Requesters may obtain a copy of the supporting statement from the General Services Administration, Regulatory Secretariat Division by calling 202-501-4755 or emailing GSAREgSec@gsa.gov. Please cite OMB Control Number 9000-0107, Federal Acquisition Regulation Part 23 Requirements, in all correspondence.

List of Subjects in 48 CFR Parts 1, 4, 9, 23, and 52

Government procurement.

William F. Clark,
Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 1, 4, 9, 23, and 52 as set forth below:

1. The authority citation for 48 CFR parts 1, 4, 9, 23, and 52 continues to read as follows:

AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. In section 1.106, amend the table by revising the entry for “52.223-22” to read as follows:

1.106 OMB approval under the Paperwork Reduction Act.

* * * * *

FAR segment	OMB control No.
* * * * *	* * *
52.223-22	9000-0107
* * * * *	* * *

PART 4—ADMINISTRATIVE AND INFORMATION MATTERS

3. Amend section 4.1202 by revising paragraph (a) (26) to read as follows:

4.1202 Solicitation provision and contract clause.

(a) * * *

(26) 52.223-22, Public Disclosure of Climate Information—Representation.

* * * * *

PART 9—CONTRACTOR QUALIFICATIONS

4. Amend section 9.104-1 by revising paragraph (g) to read as follows:

9.104-1 General standards.

* * * * *

(g) Be otherwise qualified and eligible to receive an award under applicable laws and regulations (for example, see the inverted domestic corporation prohibition at 9.108 and requirements at 9.104-3(e) and subpart 23.XX for certain contractors to disclose climate information).

5. Amend section 9.104-3 by adding paragraph (e) to read as follows:

9.104-3 Application of standards.

* * * * *

(e) *Public disclosure of climate information.* Starting on the dates specified at 23.XX03(a) and (b), the following procedures apply:

(1) Except as provided in paragraph (e)(3) of this section, the contracting officer shall presume that a prospective contractor is nonresponsible pursuant to 9.104-1 if the prospective contractor is a significant or major contractor (see definitions in 23.XX02) who has not complied with the policy at 23.XX03 (see procedures at 23.XX05), unless the contracting officer determines that—

(i) The noncompliance resulted from circumstances properly beyond the prospective contractor's control;

(ii) The prospective contractor has provided documentation sufficient for purposes of award that

demonstrates substantial efforts taken to comply, e.g., the prospective contractor has performed one or more of the actions described in 23.XX03; and

(iii) The prospective contractor has made a public commitment to comply as soon as possible (within 1 calendar year) on a publicly accessible website as defined at 23.XX02.

(2) When making the determination, the contracting officer shall—

(i) Request information from the prospective contractor to determine what efforts it has made to comply and the basis for its failure to comply; and

(ii) Consider the information provided by the prospective contractor relevant to each requirement at 23.XX03 and determine responsibility based on the prospective contractor's efforts to comply with each requirement.

(3) Upon making a determination of nonresponsibility with regard to a small business concern, the contracting officer shall refer the matter to the Small Business Administration in accordance with paragraph (d)(1) of this section.

(4) A significant or major contractor is not subject to the standard in paragraph (e)(1) of this section if—

(i) It is an entity described in 23.XX04(a);

(ii) For a major contactor, it is an entity described in 23.XX04(b); or

(iii) An exemption or waiver described in 23.XX06 applies.

PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

6. Amend section 23.001 by removing the definition “Greenhouse gases” and adding a definition for “Greenhouse gas” in its place to read as follows:

23.001 Definitions.

* * * * *

Greenhouse gas means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, nitrogen trifluoride, or sulfur hexafluoride.

* * * * *

7. Revise section 23.800 to read as follows:

23.800 Scope of subpart.

(a) This subpart sets forth policies and procedures for the acquisition of items that—

(1) Contain, use, or are manufactured with ozone-depleting substances; or

(2) Contain or use high global warming potential hydrofluorocarbons.

(b) For coverage of public disclosure of climate information, including greenhouse gas emissions, see subpart 23.XX.

23.802 [Amended]

8. Amend section 23.802 by—

a. In paragraph (a), removing the words “release or” and adding “release, or” in its place, and adding the word “and” to the end of the paragraph after the semicolon;

b. In paragraph (b)(2), removing the semicolon and adding a period in its place; and

c. Removing paragraphs (c) and (d).

9. Revise section 23.804 to read as follows:

23.804 Contract clauses.

Except for contracts for supplies that will be delivered outside the United States and its outlying areas, or contracts for services that will be performed outside the United States and its outlying areas, insert the following clauses:

(a) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons, in solicitations and contracts for—

(1) Refrigeration equipment (in product or service code (PSC) 4110);

(2) Air conditioning equipment (PSC 4120);

(3) Clean agent fire suppression systems/equipment (e.g., installed room flooding systems, portable fire

extinguishers, aircraft/tactical vehicle fire/explosion suppression systems) (in PSC 4210);

(4) Bulk refrigerants and fire suppressants (in PSC 6830);

(5) Solvents, dusters, freezing compounds, mold release agents, and any other miscellaneous chemical specialty that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 6850);

(6) Corrosion prevention compounds, foam sealants, aerosol mold release agents, and any other preservative or sealing compound that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 8030);

(7) Fluorocarbon lubricants (primarily aerosols) (in PSC 9150); and

(8) Any other manufactured end products that may contain or be manufactured with ozone-depleting substances.

(b) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners, in solicitations and contracts that include the maintenance, service, repair, or disposal of-

(1) Refrigeration equipment, such as refrigerators, chillers, or freezers; or

(2) Air conditioners, including air conditioning systems in motor vehicles.

(c) 52.223-20, Aerosols, in solicitations and contracts-

(1) For products that may contain high global warming potential hydrofluorocarbons as a propellant, or as a solvent; or

(2) That involve maintenance or repair of electronic or mechanical devices.

(d) 52.223-21, Foams, in solicitations and contracts for-

(1) Products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent, such as building foam insulation or appliance foam insulation; or

(2) Construction of buildings or facilities.

10. Add subpart 23.XX to read as follows:

Subpart 23.XX—Public Disclosure of Climate Information

Sec.

23.XX00 Scope.

23.XX01 Authorities.

23.XX02 Definitions.

23.XX03 Policy.

23.XX04 Exceptions.

23.XX05 Procedures.

23.XX06 Exemptions and waivers.

23.XX07 Solicitation provision.

Subpart 23.XX—Public Disclosure of Climate Information

23.XX00 Scope.

This subpart implements requirements for certain Federal contractors to publicly disclose their greenhouse gas emissions and climate-related financial risk and to set

science-based targets to reduce their greenhouse gas emissions.

23.XX01 Authorities.

(a) Section 1 of Executive Order 13990 of January 20, 2021, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.

(b) Section 206 of Executive Order 14008 of January 27, 2021, Tackling the Climate Crisis at Home and Abroad.

(c) Section 5(b)(i) of Executive Order 14030 of May 20, 2021, Climate-Related Financial Risk.

(d) Section 302 of Executive Order 14057 of December 8, 2021, Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability, and section II.1. of the accompanying Office of Management and Budget Memorandum M-22-06.

23.XX02 Definitions.

As used in this subpart—

Annual climate disclosure means an entity's set of disclosures that—

(1) Aligns with—

(i) The 2017 Recommendations of the Task Force on Climate-Related Financial Disclosures (TCFD) (see <https://assets.bbhub.io/company/sites/60/2021/10/FINAL-2017-TCFD-Report.pdf>), which cover governance, strategy, risk management, and metrics and targets (see figure 4 of

the 2017 recommendations for an outline of disclosures); and

(ii) The 2021 TCFD Annex: Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures, which includes updates to reflect the evolution of disclosure practices, approaches, and user needs (see https://assets.bbhub.io/company/sites/60/2021/07/2021-TCFD-Implementing_Guidance.pdf); and

(2) Includes—

(i) A greenhouse gas inventory of its Scope 1, Scope 2, and relevant Scope 3 emissions; and

(ii) Descriptions of the entity's climate risk assessment process and any risks identified.

Greenhouse gas inventory means a quantified list of an entity's annual greenhouse gas emissions that—

(1) Represents emissions during a continuous period of 12 months, ending not more than 12 months before the inventory is completed; and

(2) Is conducted in accordance with the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard, which includes the following, as applicable:

(i) Greenhouse Gas Protocol Corporate Standard, 2004 revised edition (see <https://ghgprotocol.org/sites/default/files/standards/ghg-protocol-revised.pdf>).

(ii) Required Greenhouse Gases in Inventories: Accounting and Reporting Amendment, 2013 (see https://www.ghgprotocol.org/sites/default/files/ghgp/NF3-Amendment_052213.pdf).

(iii) GHG Protocol Scope 2 Guidance, 2015 (see https://ghgprotocol.org/sites/default/files/standards/Scope%20%20Guidance_Final_Sept26.pdf).

(iv) GHG Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard Guidance, 2011 (see https://ghgprotocol.org/sites/default/files/standards/Corporate-Value-Chain-Accounting-Reporting-Standard_041613_2.pdf).

Highest-level owner means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest-level owner.

Immediate owner means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

Major contractor means an offeror who received more than \$50 million in total Federal contract obligations (as defined in OMB Circular A-11) in the prior Federal fiscal

year as indicated in the System for Award Management at <https://www.sam.gov>.

Publicly accessible website means a website that the general public can discover using commonly used search engines and read without cost. It includes a website of the offeror or a website managed by a recognized third-party greenhouse gas emissions reporting program.

Science-based target means a target for reducing greenhouse gas emissions that is in line with reductions that the latest climate science deems necessary to meet the goals of the Paris Agreement to limit global warming to well below 2°C above pre-industrial levels and pursue efforts to limit warming to 1.5°C (see SBTi frequently asked questions at <https://sciencebasedtargets.org/faqs#what-are-science-based-targets>). For information on the latest climate science see 2018 Intergovernmental Panel on Climate Change (IPCC) Special Report on 1.5°C at <https://www.ipcc.ch/sr15/>.

Scope 1 emissions means direct greenhouse gas emissions from sources that are owned or controlled by the reporting entity.

Scope 2 emissions means indirect greenhouse gas emissions associated with the generation of electricity, heating and cooling, or steam, when these are purchased or

acquired for the reporting entity's own consumption but occur at sources owned or controlled by another entity.

Scope 3 emissions means greenhouse gas emissions, other than those that are Scope 2 emissions, that are a consequence of the operations of the reporting entity but occur at sources other than those owned or controlled by the entity.

Significant contractor means an offeror who received \$7.5 million or more, but not exceeding \$50 million, in total Federal contract obligations (as defined in OMB Circular A-11) in the prior Federal fiscal year as indicated in the System for Award Management at <https://www.sam.gov>.

23.XX03 Policy.

The Government's policy is that the contracting officer shall treat a prospective contractor that is a significant or major contractor as nonresponsible under 9.104-3(e), except as provided in sections 23.XX04 and 23.XX06, unless the following requirements are met:

(a) *Significant and major contractors.* Starting on [date 1 year after publication of a final rule], the significant or major contractor (see 23.XX02) has—

(1) Completed (itself or through its immediate owner or highest-level owner) within its current or previous fiscal year a greenhouse gas inventory of its annual Scope 1 and Scope 2 emissions; and

(2) Reported in the System for Award Management (SAM) (<https://www.sam.gov>) the total annual Scope 1 and Scope 2 emissions identified through its most recent greenhouse gas inventory.

(b) *Major contractors.* Starting on [date 2 years after publication of final rule], the major contractor has (itself or through its immediate owner or highest-level owner)–

(1) Submitted an annual climate disclosure, as defined in 23.XX02, by completing those portions of the CDP Climate Change Questionnaire that align with the TCFD recommendations as identified by CDP (<https://www.cdp.net/en/guidance/how-cdp-is-aligned-to-the-tcfd>) within its current or previous fiscal year and made the annual climate disclosure available on a publicly accessible website; and

(2) Developed a science-based target, as defined in 23.XX02; had the science-based target validated by the Science-Based Targets Initiative (see <https://sciencebasedtargets.org/>) within the previous 5 calendar years; and made the validated science-based target available on a publicly accessible website.

23.XX04 Exceptions.

(a) The requirements in section 23.XX03(a) and (b) do not apply to a significant or major contractor who is–

(1) An Alaska Native Corporation, a Community Development Corporation, an Indian tribe, a Native Hawaiian Organization, or a Tribally owned concern, as those terms are defined at 13 CFR 124.3;

(2) A higher education institution (defined as institutions of higher education in the OMB Uniform Guidance at 2 CFR part 200, subpart A, and 20 U.S.C. 1001);

(3) A nonprofit research entity;

(4) A state or local government; or

(5) An entity deriving 80 percent or more of its annual revenue from management and operating contracts (see subpart 17.6) that are subject to agency annual site sustainability reporting requirements.

(b) The requirements in paragraph (b) of section 23.XX03 do not apply to a major contractor who is—

(1) Considered a small business for the North American Industry Classification System (NAICS) code identified in its SAM registration as its primary NAICS code; or

(2) A nonprofit organization.

23.XX05 Procedures.

(a) Starting on [*date 1 year after publication of a final rule*], unless an exemption or waiver applies in accordance with section 23.XX06, the contracting officer shall review an offeror's representations in paragraph (d) of the provision at 52.223-22 or its equivalent at 52.212-

3(t)(3) (see paragraph (b) of this section) when determining whether the offeror is a responsible prospective contractor (see section 9.104-3).

(1) *Other than a significant or major contractor.* If an offeror represents in 52.223-22(d)(1) that it “is not” a significant contractor and “is not” a major contractor, then the offeror is not subject to the policy at 23.XX03 and no other representations are required.

(2) *Significant contractor.* If an offeror represents that it “is” a significant contractor (see 52.223-22(d)(1)(i)) and “is not” an excepted entity (see 52.223-22(d)(2)(i)), the following responses indicate that the offeror is in compliance with the policy at 23.XX03(a):

SIGNIFICANT CONTRACTORS	
REPRESENTATIONS IN 52.223-22(d) OR EQUIVALENT AT 52.212-3(t)(3)	OFFEROR RESPONSES
(i) Paragraph (d)(3)(i) or (t)(3)(iii)(A). <i>Greenhouse gas inventory.</i>	Response must be “has”
(ii) Paragraph (d)(3)(ii) or (t)(3)(iii)(B). <i>Greenhouse gas inventory.</i>	Scope 1 and Scope 2 totals must be provided
(iii) Paragraph (d)(4) or (t)(3)(iv). <i>Annual climate disclosure.</i>	Response may be “does” or “does not”
(iv) Paragraph (d)(5) or (t)(3)(v). <i>Science-based targets.</i>	Response may be “does” or “does not”

(3) *Major contractor*. Starting on [date 2 years after publication of a final rule], if an offeror represents that it “is” a major contractor (see 52.223-22(d)(1)(ii)) and “is not” an excepted entity (see 52.223-22(d)(2)(i)), the following responses indicate that the offeror is in compliance with the policy at 23.XX03(b):

MAJOR CONTRACTORS		
REPRESENTATIONS IN 52.223-22(d) OR EQUIVALENT AT 52.212-3(t)(3)	OFFEROR RESPONSES	
	Small Business or Nonprofit Organization	Other than Small Business or Nonprofit Organization
(i) Paragraph (d)(2)(ii) or (t)(3)(ii)(B). <i>Excepted entities</i> .	If Offeror checked “is” for (A) or (B), then:	If Offeror checked “is not” for (A) and (B), then:
(ii) Paragraph (d)(3)(i) or (t)(3)(iii)(A). <i>Greenhouse gas inventory</i> .	Response must be “has”	Response must be “has”
(iii) Paragraph (d)(3)(ii) or (t)(3)(iii)(B). <i>Greenhouse gas inventory</i> .	Scope 1 and Scope 2 totals must be provided	Scope 1 and Scope 2 totals must be provided
(iv) Paragraph (d)(4) or (t)(3)(iv). <i>Annual climate disclosure</i> .	Response may be “does” or “does not”	Response must be “does”
(v) Para (d)(5) or (t)(3)(v). <i>Science-based targets</i> .	Response may be “does” or “does not”	Response must be “does”

(b) For an acquisition of commercial products or commercial services, the contracting officer shall look for

equivalent representations from a significant or major contractor in the solicitation provision at 52.212-3(t)(3).

(c) The contracting officer may rely on the offeror's representations in the provisions at 52.223-22(d) or 52.212-3(t)(3) that it is not a significant or major contractor, that it is subject to an exception, or that it is in compliance with the policy at 23.XX03. If the significant or major contractor's representations indicate that the offeror is not in compliance with the policy at 23.XX03, or if the contracting officer questions the representations, then the contracting officer shall follow the procedures at 9.104-3(e) for determining responsibility.

23.XX06 Exemptions and waivers.

(a) *Exemptions.* The procedures at 23.XX05 do not apply to acquisitions listed at 4.1102(a) where the offeror or quoter is exempt from the requirement to be registered in System for Award Management at the time an offer or quotation is submitted.

(b) *Waivers.* The senior procurement executive may provide the following types of waivers:

(1) *Waiver of procedures.* The senior procurement executive may waive the procedures at 23.XX05 and the requirement to consider whether a significant or major contractor is in compliance with the policy at 23.XX03 when determining responsibility for—

(i) Facilities, business units, or other defined units for national security purposes; or

(ii) Emergencies, national security, or other mission essential purposes; and

(2) *Entity waiver.* The senior procurement executive may provide a waiver to enable a significant or major contractor to come into compliance with the policy at 23.XX03. The period for such waivers shall not exceed 1 calendar year. Agencies shall make such waivers publicly available on the agency's website.

23.XX07 Solicitation provision.

The contracting officer shall insert the provision at 52.223-22, Public Disclosure of Climate Information—Representation, in solicitations only when 52.204-7, System for Award Management, is included in the solicitation (see 52.204-8, Annual Representations and Certifications).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

11. Amend section 52.204-08 by revising the date of the provision and paragraph (c)(1)(xix) to read as follows:

52.204-8 Annual Representations and Certifications.

* * * * *

ANNUAL REPRESENTATIONS AND CERTIFICATIONS (DATE)

* * * * *

(c) (1) * * *

(xix) 52.223-22, Public Disclosure of Climate Information-Representation. This provision applies to solicitations that include the clause at 52.204-7.

* * * * *

12. Amend section 52.212-3 by-

a. Revising the date of the provision;

b. In paragraph (a):

i. Adding in alphabetical order definitions for "Annual climate disclosure", "Greenhouse gas", and "Greenhouse gas inventory";

ii. In the definition of "Highest-level owner" removing from the second sentence the words "highest level" and adding "highest-level" in its place;

iii. Adding in alphabetical order definitions for "Major contractor", "Publicly accessible website", "Science-based target", "Scope 1 emissions", "Scope 2 emissions", "Scope 3 emissions", and "Significant contractor"; and

c. Revising paragraph (t).

The revisions and additions read as follows:

**52.212-3 Offeror Representations and Certifications-
Commercial Products and Commercial Services.**

* * * * *

OFFEROR REPRESENTATIONS AND CERTIFICATIONS-COMMERCIAL PRODUCTS AND

COMMERCIAL SERVICES (DATE)

* * * * *

(a) *Definitions.* As used in this provision—

Annual climate disclosure means an entity's set of disclosures that—

(1) Aligns with—

(i) The 2017 Recommendations of the Task Force on Climate-Related Financial Disclosures (TCFD) (see <https://assets.bbhub.io/company/sites/60/2021/10/FINAL-2017-TCFD-Report.pdf>), which covers governance, strategy, risk management, and metrics and targets (see figure 4 of the 2017 recommendations for an outline of disclosures); and

(ii) The 2021 TCFD Annex: Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures, which includes updates to reflect the evolution of disclosure practices, approaches, and user needs (see https://assets.bbhub.io/company/sites/60/2021/07/2021-TCFD-Implementing_Guidance.pdf); and

(2) Includes—

(i) A greenhouse gas inventory of its Scope 1, Scope 2, and relevant Scope 3 emissions; and

(ii) Descriptions of the entity's climate risk assessment process and any risks identified.

* * * * *

Greenhouse gas means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, nitrogen trifluoride, or sulfur hexafluoride.

Greenhouse gas inventory means a quantified list of an entity's annual greenhouse gas emissions that—

(1) Represents emissions during a continuous period of 12 months, ending not more than 12 months before the inventory is completed; and

(2) Is conducted in accordance with the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard, which includes the following, as applicable:

(i) Greenhouse Gas Protocol Corporate Standard, 2004 revised edition (see <https://ghgprotocol.org/sites/default/files/standards/ghg-protocol-revised.pdf>).

(ii) Required Greenhouse Gases in Inventories: Accounting and Reporting Amendment, 2013 (see https://www.ghgprotocol.org/sites/default/files/ghgp/NF3-Amendment_052213.pdf).

(iii) GHG Protocol Scope 2 Guidance, 2015 (see https://ghgprotocol.org/sites/default/files/standards/Scope%20%20Guidance_Final_Sept26.pdf).

(iv) GHG Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard Guidance, 2011 (see <https://ghgprotocol.org/sites/default/files/standards/Corpo>

rate-Value-Chain-Accounting-Reporting-Standard_041613_2.pdf).

* * * *

Major contractor means an offeror who received more than \$50 million in total Federal contract obligations (as defined in OMB Circular A-11) in the prior Federal fiscal year as indicated in the System for Award Management at <https://www.sam.gov>.

* * * *

Publicly accessible website means a website that the general public can discover using commonly used search engines and read without cost. It includes a website of the offeror or a website managed by a recognized third-party greenhouse gas emissions reporting program.

* * * *

Science-based target means a target for reducing greenhouse gas emissions that is in line with reductions that the latest climate science deems necessary to meet the goals of the Paris Agreement to limit global warming to well below 2°C above pre-industrial levels and pursue efforts to limit warming to 1.5°C (see SBTi frequently asked questions at <https://sciencebasedtargets.org/faqs#what-are-science-based-targets>). For information on the latest climate science see 2018 Intergovernmental Panel on Climate Change (IPCC) Special Report on 1.5°C at <https://www.ipcc.ch/sr15/>.

Scope 1 emissions means direct greenhouse gas emissions from sources that are owned or controlled by the reporting entity.

Scope 2 emissions means indirect greenhouse gas emissions associated with the generation of electricity, heating and cooling, or steam, when these are purchased or acquired for the reporting entity's own consumption but occur at sources owned or controlled by another entity.

Scope 3 emissions means greenhouse gas emissions, other than those that are Scope 2 emissions, that are a consequence of the operations of the reporting entity but occur at sources other than those owned or controlled by the entity.

* * * * *

Significant contractor means an offeror who received \$7.5 million or more, but not exceeding \$50 million, in total Federal contract obligations (as defined in OMB Circular A-11) in the prior Federal fiscal year as indicated in the System for Award Management at <https://www.sam.gov>.

* * * * *

(t) *Public Disclosure of Climate Information* (Executive Order 14030). Applies in all solicitations that require offerors to register in SAM (12.301(d)(1)).

(1) *Responsibility*. Except as provided in paragraph (t)(2) of this provision, an offeror that is a significant

or major contractor will be treated as nonresponsible pursuant to FAR section 9.104-3(e) unless the following requirements are met:

(i) *Significant or major contractor.* Starting on [date 1 year after publication of a final rule], if the offeror is a significant or major contractor, then the offeror shall have—

(A) Completed (itself or through its immediate owner or highest-level owner) within its current or previous fiscal year a greenhouse gas inventory of its annual Scope 1 and Scope 2 emissions; and

(B) Reported in SAM (<https://www.sam.gov>) the total annual Scope 1 and Scope 2 emissions identified through its most recent greenhouse gas inventory.

(ii) *Major contractor.* Starting on [date 2 years after publication of a final rule], if the offeror is a major contractor, then the offeror (itself or through its immediate owner or highest-level owner) shall have completed the following:

(A) *Annual climate disclosure.* Submitted its annual climate disclosure, as defined in paragraph (a) of this provision, by completing those portions of the CDP Climate Change Questionnaire that align with the TCFD recommendations as identified by CDP (<https://www.cdp.net/en/guidance/how-cdp-is-aligned-to-the-tcf>d) within its current or previous fiscal year and made

the annual climate disclosure available on a publicly accessible website. The time periods for submitting the CDP Climate Change Questionnaire are identified at <https://www.cdp.net/en/guidance/guidance-for-companies>.

(B) *Science-based target*. Developed a science-based target, as defined in paragraph (a) of this provision; had the science-based target validated by the Science-Based Targets Initiative (see <https://sciencebasedtargets.org/>) within the previous 5 calendar years; and made the validated science-based target available on a publicly accessible website. The validation process and time period are identified at <https://sciencebasedtargets.org/set-a-target>.

(2) *Exceptions*. (i) The requirements in paragraphs (t)(1)(i) and (t)(1)(ii) of this provision do not apply to a significant or major contractor who is—

(A) An Alaska Native Corporation, a Community Development Corporation, an Indian tribe, a Native Hawaiian Organization, or a Tribally owned concern, as those terms are defined at 13 CFR 124.3;

(B) A higher education institution (defined as institutions of higher education in the OMB Uniform Guidance at 2 CFR part 200, subpart A, and 20 U.S.C. 1001);

(C) A nonprofit research entity;

(D) A state or local government; or

(E) An entity deriving 80 percent or more of its annual revenue from management and operating contracts (see FAR subpart 17.6) that are subject to agency annual site sustainability reporting requirements.

(ii) The requirements in paragraph (t)(1)(ii) of this provision do not apply to a major contractor who is—

(A) Considered a small business for the North American Industry Classification System (NAICS) code identified in its SAM registration as its primary NAICS code; or

(B) A nonprofit organization.

(3) *Representations.* The Offeror shall complete the representation at paragraph (t)(3)(i) of this provision. If the Offeror represents in paragraph (t)(3)(i) that it “is” a significant contractor or major contractor, then the Offeror shall complete the representations in paragraphs (t)(3)(ii) through (v).

(i) *Significant or major contractor.* The Offeror represents the following:

(A) It [] is, [] is not a significant contractor (see definition in paragraph (a) of this provision).

(B) It [] is, [] is not a major contractor (see definition in paragraph (a) of this provision).

(ii) *Excepted entities.* The Offeror represents the following:

(A) It [] is, [] is not an excepted entity described in paragraph (t)(2)(i) of this provision.

(B) For the purposes of applying the exception to the requirement of paragraph (t)(1)(ii) of this provision—

(1) It [] is, [] is not considered a small business for the NAICS code identified in its SAM registration as its primary NAICS code; and

(2) It [] is, [] is not a nonprofit organization.

(iii) *Greenhouse gas inventory.* [Inventory is required for a significant or major contractor, except as provided in paragraph (t)(2)(i) of this provision.] The Offeror represents that—

(A) It [] has, [] has not (itself or through its immediate owner or highest-level owner) completed within its current or previous fiscal year a greenhouse gas inventory of its annual Scope 1 and Scope 2 emissions; and

(B) Its most recent greenhouse gas inventory indicates the following total annual greenhouse gas emissions in metric tons of carbon dioxide equivalent (MT CO2e):

Scope 1 emissions: ____

[Offeror to enter total MT CO2e].

Scope 2 emissions: ____

[Offeror to enter total MT CO2e].

(iv) *Annual climate disclosure.* [Disclosure is required for a major contractor, except as provided in paragraphs (t)(2)(i) and (t)(2)(ii) of this provision.] The Offeror represents that it [] does, [] does not (itself or through its immediate owner or highest-level owner) make available on a publicly accessible website an annual climate disclosure that was completed using the CDP Climate Change Questionnaire in its current or previous fiscal year.

(v) *Science-based targets.* [Target is required for a major contractor, except as provided in paragraphs (t)(2)(i) and (ii) of this provision.] The Offeror represents that it [] does, [] does not (itself or through its immediate owner or highest-level owner) make available on a publicly accessible website a science-based target that has been validated by the Science-Based Targets Initiative within the previous 5 calendar years.

(4) *Website(s).* If the Offeror checked “does” in paragraph (t)(3)(iv) or (v) of this provision, then the Offeror shall provide the publicly accessible website(s) where the required disclosures and targets are reported:

_____.

* * * * *

13. Amended section 52.213-4 by

a. Revising the date of the clause; and

b. In paragraph (b) (1) (xii), removing the phrase "at FAR 23.804(a) (1)" and adding "in FAR 23.804(a)" in its place.

The revision reads as follows:

**52.213-4 Terms and Conditions—Simplified Acquisitions
(Other Than Commercial Products and Commercial Services).**

* * * * *

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL
PRODUCTS AND COMMERCIAL SERVICES) (DATE)

* * * * *

14. Amend section 52.223-11 by revising the introductory text to read as follows:

**52.223-11 Ozone-Depleting Substances and High Global
Warming Potential Hydrofluorocarbons.**

As prescribed in 23.804(a), insert the following clause:

* * * * *

15. Amend section 52.223-12 by revising the introductory text to read as follows:

**52.223-12 Maintenance, Service, Repair, or Disposal of
Refrigeration Equipment and Air Conditioners.**

As prescribed in 23.804(b), insert the following clause:

* * * * *

16. Amend section 52.223-20 by revising the introductory text to read as follows:

52.223-20 Aerosols.

As prescribed in 23.804(c), insert the following clause:

* * * * *

17. Amend section 52.223-21 by revising the introductory text to read as follows:

52.223-21 Foams.

As prescribed in 23.804(d), insert the following clause:

* * * * *

18. Revise section 52.223-22 to read as follows:

52.223-22 Public Disclosure of Climate Information—Representation.

As prescribed in 23.XX07, insert the following provision:

PUBLIC DISCLOSURE OF CLIMATE INFORMATION—REPRESENTATION (DATE)

(a) *Definitions.* As used in this provision—

Annual climate disclosure means an entity's set of disclosures that—

(1) Aligns with—

(i) The 2017 Recommendations of the Task Force on Climate-Related Financial Disclosures (TCFD) (see <https://assets.bbhub.io/company/sites/60/2021/10/FINAL-2017-TCFD-Report.pdf>), which covers governance, strategy, risk management, and metrics and targets (see figure 4 of the 2017 recommendations for an outline of disclosures); and

(ii) The 2021 TCFD Annex: Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures, which includes updates to reflect the evolution of disclosure practices, approaches, and user needs (see https://assets.bbhub.io/company/sites/60/2021/07/2021-TCFD-Implementing_Guidance.pdf); and

(2) Includes—

(i) A greenhouse gas inventory of its Scope 1, Scope 2, and relevant Scope 3 emissions; and

(ii) Descriptions of the entity's climate risk assessment process and any risks identified.

Greenhouse gas means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, nitrogen trifluoride, or sulfur hexafluoride.

Greenhouse gas inventory means a quantified list of an entity's annual greenhouse gas emissions that—

(1) Represents emissions during a continuous period of 12 months, ending not more than 12 months before the inventory is completed; and

(2) Is conducted in accordance with the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard, which includes the following, as applicable:

(i) Greenhouse Gas Protocol Corporate Standard, 2004 revised edition (see

<https://ghgprotocol.org/sites/default/files/standards/ghg-protocol-revised.pdf>) .

(ii) Required Greenhouse Gases in Inventories: Accounting and Reporting Amendment, 2013 (see https://www.ghgprotocol.org/sites/default/files/ghgp/NF3-Amendment_052213.pdf) .

(iii) GHG Protocol Scope 2 Guidance, 2015 (see https://ghgprotocol.org/sites/default/files/standards/Scope%20%20Guidance_Final_Sept26.pdf) .

(iv) GHG Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard Guidance, 2011 (https://ghgprotocol.org/sites/default/files/standards/Corporate-Value-Chain-Accounting-Reporting-Standard_041613_2.pdf) .

Highest-level owner means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest-level owner.

Immediate owner means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

Major contractor means an offeror who received more than \$50 million in total Federal contract obligations (as defined in OMB Circular A-11) in the prior Federal fiscal year as indicated in the System for Award Management at <https://www.sam.gov>.

Publicly accessible website means a website that the general public can discover using commonly used search engines and read without cost. It includes a website of the offeror or a website managed by a recognized third-party greenhouse gas emissions reporting program.

Science-based target means a target for reducing greenhouse gas emissions that is in line with reductions that the latest climate science deems necessary to meet the goals of the Paris Agreement to limit global warming to well below 2°C above pre-industrial levels and pursue efforts to limit warming to 1.5°C (see SBTi frequently asked questions at <https://sciencebasedtargets.org/faqs#what-are-science-based-targets>). For information on the latest climate science see 2018 Intergovernmental Panel on Climate Change (IPCC) Special Report on 1.5°C at <https://www.ipcc.ch/sr15/>.

Scope 1 emissions means direct greenhouse gas emissions from sources that are owned or controlled by the reporting entity.

Scope 2 emissions means indirect greenhouse gas emissions associated with the generation of electricity,

heating and cooling, or steam, when these are purchased or acquired for the reporting entity's own consumption but occur at sources owned or controlled by another entity.

Scope 3 emissions means greenhouse gas emissions, other than those that are Scope 2 emissions, that are a consequence of the operations of the reporting entity but occur at sources other than those owned or controlled by the entity.

Significant contractor means an offeror who received \$7.5 million or more, but not exceeding \$50 million, in total Federal contract obligations (as defined in OMB Circular A-11) in the prior Federal fiscal year as indicated in the System for Award Management at <https://www.sam.gov>.

(b) *Responsibility*. Except as provided in paragraph (c) of this provision, an offeror that is a significant or major contractor will be treated as nonresponsible pursuant to Federal Acquisition Regulation (FAR) section 9.104-3(e) unless the following requirements are met:

(1) *Significant or major contractor*. Starting on [date 1 year after publication of a final rule], if the offeror is a significant or major contractor, then the offeror shall have—

(i) Completed (itself or through its immediate owner or highest-level owner) within its current or

previous fiscal year a greenhouse gas inventory of its annual Scope 1 and Scope 2 emissions; and

(ii) Reported in the System for Award Management (SAM) the total annual Scope 1 and Scope 2 emissions identified through its most recent greenhouse gas inventory.

(2) *Major contractor.* Starting on [date 2 years after publication of a final rule], if the offeror is a major contractor, then the offeror (itself or through its immediate owner or highest-level owner) shall have completed the following:

(i) *Annual climate disclosure.* Submitted its annual climate disclosure, as defined in paragraph (a) of this provision, by completing those portions of the CDP Climate Change Questionnaire that align with the TCFD recommendations as identified by CDP (<https://www.cdp.net/en/guidance/how-cdp-is-aligned-to-the-tcfd>) within its current or previous fiscal year and made the annual climate disclosure available on a publicly accessible website. The time periods for submitting the CDP Climate Change Questionnaire are identified at <https://www.cdp.net/en/guidance/guidance-for-companies>.

(ii) *Science-based target.* Developed a science-based target, as defined in paragraph (a) of this provision; had the science-based target validated by the Science-Based Targets Initiative (see

<https://sciencebasedtargets.org/>) within the previous 5 calendar years; and made the validated science-based target available on a publicly accessible website. The validation process and time period are identified at

<https://sciencebasedtargets.org/set-a-target>.

(c) *Exceptions.* (1) The requirements in paragraphs (b) (1) and (b) (2) of this provision do not apply to a significant or major contractor who is—

(i) An Alaska Native Corporation, a Community Development Corporation, an Indian tribe, a Native Hawaiian Organization, or a Tribally owned concern, as those terms are defined at 13 CFR 124.3;

(ii) A higher education institution (defined as institutions of higher education in the OMB Uniform Guidance at 2 CFR part 200, subpart A, and 20 U.S.C. 1001);

(iii) A nonprofit research entity;

(iv) A State or local government; or

(v) An entity deriving 80 percent or more of its annual revenue from management and operating contracts (see FAR subpart 17.6) that are subject to agency annual site sustainability reporting requirements.

(2) The requirements in paragraph (b) (2) of this provision do not apply to a major contractor who is—

(i) Considered a small business for the North American Industry Classification System (NAICS) code

identified in its SAM registration as its primary NAICS code; or

(ii) A nonprofit organization.

(d) *Representations.* [The Offeror shall complete the representation at paragraph (d)(1) of this provision. If the Offeror represents in paragraph (d)(1) that it "is" a significant contractor or major contractor, then the Offeror shall complete the representations in paragraphs (d)(2) through (d)(5)].

(1) *Significant or major contractor.* The Offeror represents the following:

(i) It [] is, [] is not a significant contractor (see definition in paragraph (a) of this provision).

(ii) It [] is, [] is not a major contractor (see definition in paragraph (a) of this provision).

(2) *Excepted entities.* The Offeror represents the following:

(i) It [] is, [] is not an excepted entity described in paragraph (c)(1) of this provision.

(ii) For the purposes of applying the exception to the requirements of paragraph (b)(2) of this provision—

(A) It [] is, [] is not considered a small business for the NAICS code identified in its SAM registration as its primary NAICS code; and

(B) It [] is, [] is not a nonprofit organization.

(3) *Greenhouse gas inventory.* [*Inventory is required for a significant or major contractor, except as provided in paragraph (c) (1) of this provision.*] The Offeror represents that—

(i) It [] has, [] has not (itself or through its immediate owner or highest-level owner) completed within its current or previous fiscal year a greenhouse gas inventory of its annual Scope 1 and Scope 2 emissions; and

(ii) Its most recent greenhouse gas inventory indicates the following total annual greenhouse gas emissions in metric tons of carbon dioxide equivalent (MT CO₂e):

Scope 1 emissions: ____

[Offeror to enter total MT CO₂e].

Scope 2 emissions: ____

[Offeror to enter total MT CO₂e].

(4) *Annual climate disclosure.* [*Disclosure is required for a major contractor, except as provided in paragraphs (c) (1) and (c) (2) of this provision.*] The Offeror represents that it [] does, [] does not (itself or through its immediate owner or highest-level owner) make available on a publicly accessible website an annual climate disclosure that was completed using the CDP Climate

Change Questionnaire within its current or previous fiscal year.

(5) *Science-based target*. [*Target is required for a major contractor, except as provided in paragraphs (c) (1) and (c) (2) of this provision*]. The Offeror represents that it [] does, [] does not (itself or through its immediate owner or highest-level owner) make available on a publicly accessible website a science-based target that has been validated by the Science-Based Targets Initiative within the previous 5 calendar years.

(e) *Website(s)*. If the Offeror checked “does” in paragraphs (d) (4) or (d) (5) of this provision, then the Offeror shall provide the publicly accessible website(s) where the required disclosures and targets are reported:

_____.

(End of provision)

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